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One Family in Two Courts: Coordination For Families In Illinois Juvenile and Domestic Relations Courts

*Amy Kosanovich**

*mentored by Judge Michael J. Chmiel***

I. INTRODUCTION

Court proceedings involving child custody can be difficult for any family to endure.¹ Whether a family is in court because of a divorce proceeding or because of allegations of child abuse, family members often have to testify to facts that may be emotionally difficult to recount

* J.D., Loyola University Chicago School of Law, expected May 2007. I would like to thank Judge Michael Chmiel for generously sharing his time, insights, and expertise throughout the writing of this article. I also extend my sincere gratitude to R.J. Hazeltine-Shedd and the editorial board of the Loyola Law Journal for their thorough readings of this Article, insightful editorial comments, and attention to detail; to the faculty of the Loyola Child Law Center for constantly sharing their expertise surrounding children's legal issues; and to my family and friends for their continued support and encouragement.

** The Honorable Michael J. Chmiel has presided over Juvenile Court in McHenry County since May 2, 2005. He hears all matters arising under the Juvenile Court Act of 1987, including all abuse, neglect, and dependency cases, as well as all delinquency cases. He was born and raised in Chicago, Illinois. He received his B.A. in Economics and Administration from the University of Notre Dame in 1987 and his J.D. from the University of Illinois College of Law in 1990. He served as Law Clerk to the Honorable Richard N. DeGunther, United States Bankruptcy Judge for the Northern District of Illinois, Western Division, from 1990–1992. From 1992–2004, he engaged in the general practice of law with offices in Chicago, Rockford, and Crystal Lake. On November 1, 2004, he was appointed by a unanimous vote of the Illinois Supreme Court to fill a Circuit Judge vacancy in the Nineteenth Judicial Circuit of the State of Illinois, sitting in the City of Woodstock in the County of McHenry. On November 23, 2005, the Illinois Supreme Court appointed him to the Minimum Continuing Legal Education Board; at the first meeting of the Board on December 15, 2005, he was elected Treasurer of the Board. He is a present and past member of various bar associations; among other roles, he previously served as President of the Illinois Township Attorneys Association and Chairman of two Section Councils of the Illinois State Bar Association. He is also involved in various civic and community organizations, and often participates in educational programs for attorneys and elected officials.

1. See Mark Hardin, *Child Protection Cases in a Unified Family Court*, 32 FAM. L.Q. 147, 147–48 (1998) (discussing difficulties of child protection cases).

and judges may have to make determinations based on unclear facts.² When families are involved in both types of proceedings in separate courts, the challenges grow even greater.³ Child protection and divorce proceedings involving the same family—conducted separately and without regard to the other—create a great potential for conflicting orders and inefficiency.⁴

For example, one family may be involved in a dissolution of marriage proceeding and an abuse proceeding at the same time.⁵ The juvenile court judge in the abuse proceeding may determine that the father has abused his child and prohibit him from having future contact with that child.⁶ The judge in the divorce proceeding, however, may exclude evidence of the father's alleged abuse and order visitation between the father and child.⁷

As in other states, it is common in Illinois for one judge to hear a family's divorce proceeding and another judge to hear that same family's child abuse proceeding.⁸ Until recently, Illinois laws did not guarantee that each judge would know of both proceedings if they occurred simultaneously.⁹ Furthermore, the current court system mandates no specific procedures for judges to follow when such cases are heard concurrently.¹⁰ This fragmented system can result in diverse and conflicting orders issued to a family, inefficient use of judicial

2. See Judith D. Moran, *Fragmented Courts and Child Protection Cases: A Modest Proposal for Reform*, 40 FAM. CT. REV. 488, 492 (2002) (explaining how children may have a difficult time disclosing "intimate details" about their family in a courtroom); see Hardin *supra* note 1, at 169 (discussing children's mental health factors that make judicial decisions more difficult).

3. See Barbara A. Babb, *Where We Stand: An Analysis of America's Family Law Adjudicatory Systems and the Mandate to Establish Unified Family Courts*, 32 FAM. L.Q. 31, 47 (1998) (discussing the difficulties that families face when involved in multiple court proceedings, such as unnecessary delay, duplicative and contradictory rulings, and recommendations).

4. See *id.* at 32 (explaining the effects of a "fragmented judicial system").

5. Paul A. Williams, *A Unified Family Court for Missouri*, 63 UMKC L. REV. 383, 388 (1995).

6. *Id.*

7. *Id.* For example, in *In re Marriage of Troy S.*, the appellate court upheld the trial court's refusal to allow testimony from a Department of Children and Family Services investigator during a custody proceeding in a divorce action, noting that the proceeding did not result from a report under the Abused and Neglected Child Reporting Act but was a custody proceeding brought under the Illinois Marriage and Dissolution of Marriage Act. *In re Marriage of Troy S.*, 745 N.E.2d 109, 111–13 (Ill. App. Ct. 3d Dist. 2001).

8. Williams, *supra* note 5, at 383–84. Several circuits in Illinois have different divisions in which divorce proceedings and child abuse proceedings will be heard. See *infra* Part II.B.1 (explaining how circuit courts in Illinois are often divided by subject area).

9. See *infra* Part II.C (discussing the practical effects of the various laws that govern children and families).

10. See *infra* Part III.C (outlining what is required by local circuit rules of Illinois).

resources, and undue costs to litigants who have multiple proceedings in different courtrooms.¹¹

The Unified Family Court (UFC) model is designed to resolve such issues of conflict and inefficiency.¹² Under the UFC model, a single court system has comprehensive jurisdiction over all issues involving children and their families, providing greater consistency and a more holistic approach for dealing with family issues.¹³ Judges and families are satisfied with the results of UFCs in the jurisdictions that have implemented them.¹⁴ Such results have even prompted two courts in Illinois to experiment with the UFC model.¹⁵ While some criticisms remain about the effectiveness of the UFC model, its potential benefits warrant an examination of how the UFC model may be applied in Illinois.¹⁶

As this Article was going to press, the Illinois Supreme Court announced its adoption of several new rules mandating coordination of child custody proceedings throughout the state. The “current Illinois court system” discussed in this Article refers to the system prior to the adoption of these rules. Following this Article is an Addendum discussing the impact of these new rules on the issues presented here.

This Article examines how the UFC model and several Illinois laws may solve the potential problems that exist within Illinois when one family is involved in custody and visitation hearings in both the juvenile and domestic relations court divisions.¹⁷ Part II of this Article describes the three laws that govern domestic relations and juvenile issues in Illinois and gives an overview of the Illinois court structures that hear

11. Williams, *supra* note 5, at 384; *see also* W. Va. Dep’t of Health & Human Res. v. Smith, 624 S.E.2d 917, 921 (W. Va. 2005) (quoting the acknowledgement from the Report of the Commission on the Future of the West Virginia Judicial System that a lack of coordination between different parts of the judicial system can result in conflicting orders and an inefficient use of judicial resources).

12. Carolyn D. Schwarz, *Unified Family Courts: A Saving Grace for Victims of Domestic Violence Living in Nations with Fragmented Court Systems*, 42 FAM. CT. REV. 304, 304 (2004).

13. Erin J. May, *Social Reform for Kentucky’s Judicial System: The Creation of Unified Family Courts*, 92 KY. L.J. 571, 577 (2004) (stating that UFCs “result[] in a more consistent, holistic approach to family issues”).

14. *See infra* Part IV.A (citing examples of the UFC model in various jurisdictions).

15. Center for Analysis of Alternative Dispute Resolution Systems, Court-Related ADR Programs in Illinois by Program Type, <http://www.caads.org/adr/ilprogstype.htm> (last visited Mar. 24, 2006) (showing that DuPage County and Cook County both have Unified Family Court Programs).

16. *See* Anne H. Geraghty & Wallace J. Mlyniec, *Unified Family Courts: Tempering Enthusiasm with Caution*, 40 FAM. CT. REV. 435, 435 (cautioning UFC advocates about the potential drawbacks of the UFC system).

17. *See generally* Schwarz, *supra* note 12 (recommending certain reform measures for specific jurisdictions).

custody and visitation cases and the potential problems that these structures create.¹⁸ Part III discusses the UFC model and several Illinois laws that attempt to improve courts through coordination and communication.¹⁹ Part IV then analyzes the positive and negative aspects of the UFC model and these Illinois laws as well as their effectiveness in resolving court fragmentation.²⁰ Part V recommends specific measures that Illinois should take to improve the coordination and communication between its juvenile and domestic relations courts.²¹

II. BACKGROUND

To comprehend the potential for conflicting custody and visitation orders in Illinois, it is important to first understand the current Illinois structures and laws that govern juvenile and domestic relations issues and how they relate to each other.²² This Part first describes the three laws that govern domestic relations and juvenile issues in Illinois: the Illinois Marriage and Dissolution of Marriage Act, the Illinois Domestic Violence Act, and the Illinois Juvenile Court Act.²³ Next, the Part discusses the court systems that hear cases under these acts and their organization.²⁴ This Part concludes with a discussion of the various problems that arise under the current Illinois court system.²⁵

A. The Illinois Marriage and Dissolution of Marriage Act, the Illinois Domestic Violence Act, and the Illinois Juvenile Court Act

The Illinois Marriage and Dissolution of Marriage Act (Dissolution of Marriage Act), the Illinois Domestic Violence Act (Domestic

18. See *infra* Part II (describing the laws that govern juvenile and domestic relations issues in Illinois, the courts that hear such issues, and the potential problems arising under the current court structures).

19. See *infra* Part III (examining the UFC model's history and components and specific laws in Illinois addressing issues of case coordination).

20. See *infra* Part IV (analyzing the strengths and criticisms of the UFC Model and the practical effects of the Uniform Child Custody Jurisdiction and Enforcement Act's notice requirements).

21. See *infra* Part V (proposing that Illinois consider adopting the UFC model statewide, enact notice requirements for parties involved in multiple child custody hearings, and that the juvenile court judge preside over custody matters when proceedings involving the same parties are pending in domestic relations court).

22. See *infra* Part II.A–B (discussing the governing Illinois laws and the Illinois courts that administer juvenile and domestic relations cases).

23. See *infra* Part II.A (explaining the issues arising under each law governing family issues).

24. See *infra* Part II.B (describing the Illinois circuit courts and their various divisions).

25. See *infra* Part II.C (detailing the potential problems that Illinois' fragmented court system creates).

Violence Act), and the Illinois Juvenile Court Act (Juvenile Court Act) govern most legal issues involving children and families in Illinois.²⁶ The Dissolution of Marriage Act deals with issues relating to divorce, legal separation, child custody, and visitation,²⁷ whereas the Domestic Violence Act governs domestic violence matters.²⁸ The Juvenile Court Act involves matters regarding abuse, neglect, and dependency of a minor, which often include custody and visitation issues.²⁹

Custody and visitation issues can arise under all three of the above Illinois laws.³⁰ First, courts make custody and visitation determinations in dissolution of marriage and legal separation cases.³¹ Additionally, if a court enters an order of protection as a result of domestic violence, it may also determine custody and visitation.³² The Dissolution of Marriage Act and the Domestic Violence Act, respectively, control these determinations.³³

A finding of abuse, neglect, or dependency in a juvenile court child protection hearing may also result in a custody or visitation hearing.³⁴ Under the Juvenile Court Act, for example, if a court makes such a finding, the court may remove the child involved from the home and place the child in the custody of the State.³⁵ That child may then be placed with a family member, a foster family, or a group or institutional

26. Dissolution of Marriage Act, 750 ILL. COMP. STAT. 5/101 (2004); Domestic Violence Act, 750 ILL. COMP. STAT. 60/101; Juvenile Court Act, 705 ILL. COMP. STAT. 405/1-1.

27. 750 ILL. COMP. STAT. 5/102.

28. 750 ILL. COMP. STAT. 60/102.

29. 705 ILL. COMP. STAT. 405/1, 2-1. This Article will focus on custody and visitation issues arising from findings of abuse, neglect, or dependency under the Juvenile Court Act, not on juvenile delinquency issues brought under the Juvenile Court Act. However, such issues are often intertwined, with the same minor being involved in both a juvenile delinquency hearing and an abuse, neglect, or dependency hearing. See Williams, *supra* note 5 (describing examples of minors involved in dependency and juvenile delinquency cases).

30. 750 ILL. COMP. STAT. 5/601; 705 ILL. COMP. STAT. 405/2-33; 750 ILL. COMP. STAT. 60/214 (b)(5)–(7).

31. See 750 ILL. COMP. STAT. 5/601(b)(1)(i) (stating that a child custody proceeding is commenced by a parent filing a petition for dissolution of marriage); see also Atkinson v. Atkinson, 402 N.E.2d 831, 836 (Ill. App. Ct. 1st Dist. 1980) (addressing visitation and custody of the parties' children upon their divorce).

32. See 750 ILL. COMP. STAT. 60/214 (b)(6)–(7) (stating a court can presume custody if it finds abuse after a hearing and that it can determine visitation rights); see also *In re Marriage of Rodriguez*, 545 N.E.2d 731, 732 (Ill. 1989) (determining a child custody issue when entering a domestic violence order of protection and ultimately dissolving the marriage).

33. 750 ILL. COMP. STAT. 5/601(b); 750 ILL. COMP. STAT. 60/214(b)(5)–(7).

34. 705 ILL. COMP. STAT. 405/2-1. Hardin, *supra* note 1, at 151 (explaining that a judge in a child protection case determines temporary custody and visitation in addition to establishing a case plan for the child and monitoring the child until a permanent resolution is possible.).

35. Hardin, *supra* note 1, at 153.

foster care home.³⁶ The Illinois Department of Children and Family Services creates permanency plans for children who are removed from their home that, upon approval by the court, dictate the terms for reunification of the family.³⁷ The juvenile court then monitors the progress of the family under those permanency plans.³⁸ Eventually, the court makes a determination whether to return the child home, put the child up for adoption, or place the child with a relative or other adult.³⁹ The court may also choose to award custody to one parent over another or to limit the visitation of one or both of the parents.⁴⁰

B. Illinois Courts with Jurisdiction to Hear Juvenile and Domestic Relations Cases

A family in Illinois will likely go before an Illinois circuit court to remedy its various legal matters.⁴¹ This Part first describes the various Illinois circuit courts and the different ways they are structured to hear juvenile and domestic relations cases.⁴² This Part then discusses probate and criminal courts and the ways a family may be involved with each.⁴³

1. Courts With Jurisdiction Over Domestic Relations and Child Protection Cases

The circuit courts of Illinois hear cases involving juveniles and domestic relations.⁴⁴ There are currently⁴⁵ twenty-two circuit courts in Illinois.⁴⁶ Nineteen of the circuits contain between two and twelve

36. See 705 ILL. COMP. STAT. 405/2-7 (listing the possible placements for a child in temporary custody of the state).

37. Hardin, *supra* note 1, at 152.

38. See *id.* at 158 (describing the court's review of the child's progress under the case plan).

39. *Id.* at 158-59.

40. *Id.* at 159-60.

41. National Center for State Courts, Illinois Court Structure, http://www.ncsconline.org/D_Research/Ct_Struct/IL.htm (last visited Mar. 24, 2006) [hereinafter Illinois Court Structure].

42. See *infra* Part II.B.1 (detailing the different Illinois circuit courts and how they are structured to hear cases involving children and families).

43. See *infra* Part II.B.2 (explaining how a family may be involved with probate or criminal courts).

44. Illinois Court Structure, *supra* note 41.

45. Under 2003 Ill. Laws 3467, a twenty-third circuit court will be created in Illinois, effective December 4, 2006. Under 2003 Ill. Laws 3467, two additional circuits will exist as single-county circuits—the Nineteenth Circuit (Lake County) and the Twenty-second Circuit (McHenry County).

46. Illinois Courts Website, Circuit Court Narrative, <http://www.state.il.us/court/CircuitCourts/CCourt.htm> (last visited Mar. 24, 2006).

counties each, while three of the circuits are single-county circuits (Cook, Will, and DuPage).⁴⁷ Each circuit court retains exclusive jurisdiction over cases involving domestic relations disputes and cases involving abuse, neglect, and dependency allegations.⁴⁸

Each circuit court generally has the power to hear domestic relations and child protection cases, but most circuit courts are divided by subject area.⁴⁹ The different divisions that hear such cases vary by jurisdiction.⁵⁰ For instance, the Circuit Court of Cook County has a Domestic Relations Division, a Juvenile Justice Division, and a Child Protection Division.⁵¹ Within the Domestic Relations Division, the circuit court hears cases relating to divorce and separation, custody, and visitation.⁵² The Juvenile Justice Division hears cases involving the delinquency of minors under the age of seventeen.⁵³ The Child Protection Division hears cases involving abuse, neglect, dependency, and termination of parental rights.⁵⁴ One presiding judge is assigned to each division.⁵⁵ However, more than ten judges work in each of the Juvenile Justice and Child Protection divisions, and over forty judges are assigned to the Domestic Relations Division.⁵⁶ Six municipal districts throughout Cook County also hear cases involving domestic violence and marriage.⁵⁷

In contrast, the Circuit Court of Lake County, located in the

47. *Id.*

48. Illinois Court Structure, *supra* note 41.

49. See State of Illinois Circuit Court of Cook County, Divisions, <http://www.cookcountycourt.org/divisions/index.html> (last visited Mar. 24, 2006) (listing the divisions used by the Circuit Court of Cook County); see also Nineteenth Judicial Circuit Court Divisions, http://www.19thcircuitcourt.state.il.us/crtorg/crt_divisions.htm (last visited Mar. 24, 2006) (describing its court structure divided by subject areas).

50. *Id.*

51. State of Illinois Circuit Court of Cook County, Divisions, *supra* note 49. Cook County reorganized its structure to create the juvenile justice and child protection divisions in January 1995. Prior to 1995, Cook County only had a juvenile division housed in its county department. State of Illinois Circuit Court of Cook County, Juvenile Justice and Child Protection Department, <http://www.cookcountycourt.org/about/juvenile.html> (last visited Mar. 24, 2006).

52. State of Illinois Circuit Court of Cook County, Rules of the Circuit Court of Cook County, <http://www.cookcountycourt.org/rules/index.html> (last visited Mar. 24, 2006).

53. State of Illinois Circuit Court of Cook County, Juvenile Justice and Child Protection Department, *supra* note 51.

54. *Id.*

55. State of Illinois Circuit Court of Cook County, Office of Presiding Judges, <http://www.cookcountycourt.org/about/directory/presiding.html> (last visited Mar. 24, 2006).

56. *Id.*

57. State of Illinois Circuit Court of Cook County, Municipal Department, <http://www.cookcountycourt.org/about/municipal.html> (last visited Mar. 24, 2006).

Nineteenth Judicial Circuit, has a juvenile court and a family court.⁵⁸ Its family court, comprised of one presiding judge and three other judges, hears cases involving divorce and separation, child custody, and adoption.⁵⁹ Its juvenile court, made up of three judges, handles cases involving abuse, neglect, dependency, termination of parental rights, juvenile adoption, and juvenile delinquency.⁶⁰

2. Other Relevant Courts

Juvenile and domestic relations courts are the primary courts in Illinois that deal with children and their families.⁶¹ However, two other courts, probate and criminal, may also be involved in a family's legal affairs.⁶² Probate courts handle certain custody matters related to a minor whose parents are deceased or are unwilling or unable to act as custodians to that minor.⁶³ Criminal courts, on the other hand, deal with situations in which the State files criminal charges against a parent or guardian who abuses or neglects a minor.⁶⁴ Likewise, cases involving orders of protection against a parent in domestic relations court may result in criminal charges against that parent.⁶⁵

C. Problems Arising Under Illinois' Current Court Systems

Confusion and conflict may result if the same family is involved in simultaneous proceedings in different courts.⁶⁶ Under the current court structures in Illinois, this conflict may arise in a number of different

58. Nineteenth Judicial Circuit Court Divisions, *supra* note 49.

59. *Id.*; Lake County Circuit Court, Courtroom Assignments, <http://19thcircuitcourt.state.il.us/scheds/lake.htm> (last visited Mar. 24, 2006).

60. *Id.*

61. See *infra* Part II.A.1 (explaining the issues heard by juvenile and domestic relations courts).

62. See Nineteenth Circuit Court of Illinois, Probate Court, <http://www.19thcircuitcourt.state.il.us/bkshelf/probate/probate.htm> (last visited Mar. 24, 2006) (discussing matters involved with guardianship of a minor); see Moran, *supra* note 2, at 488 (explaining that domestic violence cases and child abuse and neglect cases may have proceedings in both civil and criminal court).

63. Nineteenth Circuit Court of Illinois, Probate Court, *supra* note 62; Probate Courts in Illinois are governed by the Illinois Probate Act, 755 ILL. COMP. STAT. 5/1-1 (2004). See also 755 ILL. COMP. STAT. 5/11-5 (describing how probate courts can handle custody matters for minors in specific situations).

64. Moran, *supra* note 2, at 488.

65. There is strong support for coordinating cases involving civil and criminal matters relating to the same family, particularly in the UFC model. This Article will not address criminal cases in which a family may also be involved. For a discussion on such cases, their overlap with civil cases, and the due process concerns raised when attempting to coordinate such cases, see Geraghty & Mlyniec, *supra* note 16, at 438-40, 443-446.

66. Babb, *supra* note 3, at 32.

ways.⁶⁷ For instance, a domestic relations judge presiding over a dissolution of marriage proceeding may have to make a determination on custody and visitation.⁶⁸ If that same family is involved in an abuse proceeding in juvenile court, the domestic relations judge may or may not know about the abuse proceeding.⁶⁹ If the judge does not know about the other proceeding, the result could be an order that directly contradicts or conflicts with the abuse finding.⁷⁰ If the judge does know about the proceeding, no specific procedures exist for the judge to follow to protect against a conflicting result.⁷¹ Either way, the court's resources are spent as multiple judges hear and resolve issues on the same facts for a particular family.⁷² At the same time, the family is forced to explain the same set of facts numerous times while traveling back and forth to different courtrooms.⁷³ Without coordination between the courts, judges are apt to issue conflicting orders or findings and may also issue overlapping or conflicting services.⁷⁴

This Part will address each of these problems that may result from the failure to coordinate among the courts.⁷⁵ First, this Part describes the conflicting and varying results that can occur when a judge does not know about another proceeding involving the same family.⁷⁶ Next, this Part addresses the possibility that court and family resources will be duplicated when different judges hear the same facts in different proceedings.⁷⁷ Lastly, this Part details the different ways in which the

67. See *infra* Part II.C (describing the various ways that conflicting results may occur when one family is involved in different courts).

68. See 750 ILL. COMP. STAT. 5/101 (2004) (stating requirements for custody determinations resulting from dissolution of marriage); see also *In re Anast*, 318 N.E.2d 18, 19 (Ill. App. Ct. 1st Dist. 1974) (involving a divorce proceeding that awarded the stepfather custody of two children).

69. Moran, *supra* note 2, at 491; see also *In re Anast*, 318 N.E.2d at 18 (concerning a neglect proceeding in juvenile court involving two children and a pending divorce proceeding involving the same children).

70. *In re Anast*, 318 N.E.2d at 18.

71. Most circuit courts do not have rules directing judges how to act when they are aware of pending proceedings in other courts involving the same families in divorce or child protection cases. See *infra* Part III.C (discussing the few circuit court rules that exist directing judges to certain procedures when families have multiple proceedings in different courts).

72. Moran, *supra* note 2, at 491.

73. See Andrew Shepard & James W. Bozzomo, *Efficiency, Therapeutic Justice, Mediation and Evaluation: Reflections on a Survey of Unified Family Courts*, 37 FAM. L.Q. 333, 338 (2003) (discussing the need for conserving private resources in family legal disputes).

74. Moran, *supra* note 2, at 491.

75. See *infra* Part II.C (reviewing the various problems arising under the current Illinois court system).

76. See *infra* Part II.C.1 (discussing the lack of notice of simultaneous proceedings).

77. See *infra* Part II.C.2 (noting the multiple allocations of resources inherent in the current Illinois court system).

domestic relations and juvenile courts approach the best interests of the child standard and how these different approaches can result in conflicting orders.⁷⁸

1. Notice of Simultaneous Proceedings

In many instances, judges are unaware of the nature and state of proceedings in other courts involving the same family.⁷⁹ Without structures in place to facilitate and encourage communication and coordination among judges when dealing with the domestic legal matters of one family, it is quite possible that a domestic relations court could have no idea what is going on in a juvenile court and vice-versa.⁸⁰

Consider the following example.⁸¹ A mother obtains an emergency order of protection in domestic relations court that denies the father visitation of their five-year-old child and places the child in the physical custody of the mother. Meanwhile, the Department of Children and Family Services receives an anonymous call that the child is in a harmful environment and, after investigating, places the child in protective custody. When the juvenile court hears the matter, no one is aware of the domestic relations proceeding and the judge issues a temporary custody order that gives the father and the mother visitation.

As the above example shows, if the juvenile court judge does not know of a pending custody hearing in the domestic relations division, his or her decision to award temporary custody or visitation to one parent may directly contradict, without his or her knowledge, the domestic relations court's prior disposition of the case.⁸² Similarly, if a domestic relations judge determining custody of a child does not know of a pending abuse hearing against one of that child's parents in juvenile court, the results can be problematic.⁸³ The domestic relations court judge could award custody to a mother while the juvenile court judge is

78. See *infra* Part II.C.3 (detailing various approaches to ensuring the best interests of the child are met).

79. Moran, *supra* note 2, at 491.

80. Margery Gordon, *Roadblocks to Reform: Special Report: Family Law*, MIAMI DAILY BUS. REV., May 17, 2005, at 1.

81. Example provided by Judge Michael Chmiel.

82. *Id.* See AMERICAN BAR ASSOCIATION, UNIFIED FAMILY COURTS: JUSTICE DELIVERED 8 (2001) (illustrating the possibility that a court issuing one order regarding a family may be unaware of the actions of other courts affecting that family).

83. See Williams, *supra* note 5, at 388 (discussing problems associated with children involved in both domestic relations and juvenile court proceedings); M.A. Stapleton, *Caution Urged on Creating Monolithic Family Court*, CHI. DAILY L. BULL., Jan. 19, 1995, at 1 (demonstrating that courts in Cook County may not know about other related cases pertaining to the same family because of the large and bureaucratic system).

hearing accusations regarding that same mother's abuse toward her child.⁸⁴ Thus, conflicting results will likely occur when judges are unaware of pending proceedings in other courts involving related matters of a single family.⁸⁵

Because most court systems do not have specific procedures in place to identify parties involved in multiple proceedings, the current systems force the judges to rely on the litigants to get information, a situation unfavorable to many judges.⁸⁶ Even when judges know about a pending proceeding with the same family, most circuit courts do not have procedures in place to direct judges in how to avoid conflicting determinations.⁸⁷ Accordingly, judges who know about related proceedings may not talk to each other, creating a disjointed system.⁸⁸ When judges do not confer with one another, they have no way to know

84. Williams, *supra* note 5, at 388 (stating that "multiple actions and multiple judges can produce inconsistent decisions that will severely impact the child"); see Babb, *supra* note 3, at 32 (discussing how conflicting orders can result when one family's legal matters are heard before multiple courts). Most jurisdictions currently face the problems that can result when one family is involved in multiple court proceedings:

In most jurisdictions today, a child's family may appear in front of 6 or 8 or even 14 different judges, special masters, and hearing officers on issues including divorce, child custody and visitation, child and spousal support, paternity, adoption, domestic violence, child abuse and neglect, juvenile delinquency, and termination of parental rights. In this chaos, no one gets a complete picture of the child and family. Decision makers may not know about parallel hearings and certainly do not have the information that would enable them to understand how the matters relate to each other The results can be devastating. One judge may order visitation, while another issues a restraining order barring the non-custodial parent from seeing the same child because of allegations of abuse.

Catherine Ross, *Unified Family Courts: Good Sense, Good Justice*, TRIAL, Jan. 12 1999, at 30, 31.

85. Babb, *supra* note 3, at 32 (explaining that under the current judicial systems in most states, there is potential for conflicting orders because a family may be involved with one judge for a child abuse proceeding, and another judge for a divorce proceeding, along with other judges for criminal or adult abuse proceedings). Approximately twenty-five percent of all domestic relations cases involve matters related to simultaneous proceedings handled by another court and as many as forty percent of "family cases" relate to other pending matters. Ross, *supra* note 84, at 30-31.

86. Moran, *supra* note 2, at 491; see ILLINOIS COURT RULES AND PROCEDURE (2005) (containing no procedures to notify judges of parties involved in multiple proceedings but for General Order No. 1.6 in the General Orders of the Circuit Court of Cook County).

87. Compare ILL. CIR. CT. COOK COUNTY, GENERAL ORDER 1.6: Coordination of Cases Involving Children (detailing specific procedures for judges to follow when the same child is involved in multiple cases), with ILLINOIS COURT RULES AND PROCEDURE (2005) (containing no provision detailing the procedures judges should follow to avoid conflicting rulings but for General Order No. 1.6 in the General Orders of the Circuit Court of Cook County).

88. Verde, *A Better Way to Organize Family Court*, ORLANDO SENTINEL, Jan. 16, 2005, at K7 (asserting that judges managing family court issues often do not share information resulting in "a disjointed way of addressing domestic problems").

how another judge's determinations will affect their own judgments.⁸⁹ Judges only consider the information they learn from the specific proceedings over which they preside.⁹⁰ Without judicial coordination, other actions involving a family will not be taken into consideration, leading to conflicting orders.⁹¹

2. Multiple Allocations of Resources

When multiple cases involving a single family are heard before different judges, resources will be expended redundantly.⁹² Courts are at risk of wasting both the court's and the family's resources.⁹³ Scheduling related cases involving the same family in different courts wastes the court's time and money.⁹⁴ The court is putting resources into hearing two or more cases relating to the same issues, paying for two or more judges and other court staff to hear and administer the cases, and possibly duplicating services issued to the family.⁹⁵ The family and its attorneys must also travel multiple times to the separate courtrooms and repeatedly recall the facts of the cases.⁹⁶ The result is an inefficient system that fails to conserve its own resources.⁹⁷

3. Best Interests of the Child

Under both the Dissolution of Marriage Act and the Juvenile Court Act, a judge has to consider the best interests of the child when

89. See *id.* (discussing the problems that exist when judges do not confer about related cases).

90. Schwarz, *supra* note 12, at 309.

91. *Id.*

92. Gordon, *supra* note 80 (stating that counseling and evaluative services are often duplicated when different judges handle related issues).

93. Schepard & Bozzomo, *supra* note 73, at 337; See *In re Daniel R.*, 684 N.E.2d 891, 897 (Ill. App. Ct. 1st Dist. 1997) (acknowledging that resources may be wasted when one case is distributed among two or more judges).

94. Moran, *supra* note 2, at 489; W. Va. Dep't of Health & Human Resources v. Smith, 624 S.E.2d 917, 921 (W. Va. 2005) (quoting the Report of the Commission on the Future of the West Virginia Judicial System that the lack of court integration and consolidation "does not make efficient use of judicial resources").

95. Moran, *supra* note 2, at 489; Catherine J. Ross, *The Failure of Fragmentation: The Promise of a System of Unified Family Courts*, 32 FAM. L.Q. 3, 8 (describing the various harms that fragmented courts create, including subjecting children to multiple interviews by different examiners, conflicting orders resulting from different courts with overlapping jurisdiction, and delays in services and adjudication).

96. Moran, *supra* note 2, at 489; see also Ross, *supra* note 95, at 8 (presenting an example about a case where the parents are involved in a divorce proceeding in domestic relations court, fighting for custody of their daughter, a criminal action in another court in which the father is accused of sexually abusing the daughter, a dependency action in a third court alleging that the mother failed to adequately protect her daughter, and an action in domestic violence court examining whether the father physically abused the mother).

97. Schepard & Bozzomo, *supra* note 73, at 337.

determining custody and visitation.⁹⁸ However, the manner in which the two courts accomplish this are different.⁹⁹ The stated purpose of the Juvenile Court Act is to serve the best interests of the child.¹⁰⁰ However, nowhere in the purpose of the Dissolution of Marriage Act or the Domestic Violence Act is the child's best interest an indicated goal.¹⁰¹ In divorce cases, judges are required to consider the best interests of the child when determining custody or visitation issues.¹⁰² But after considering the child's best interests, the judge chooses among potential custodians and makes a final determination of custody and visitation.¹⁰³ In contrast, the goal of child protection cases is to place the child in a safe and permanent home.¹⁰⁴ The judge will not only decide temporary visitation and custody based on the best interests of the child, but will also, when removing the child from her home, establish a case plan for that child consistent with the child's best interests.¹⁰⁵ The judge then monitors the child's living environment until permanency is possible, thus assessing the child's best interests on a continuing basis.¹⁰⁶ These different approaches create a stronger possibility that conflicting orders will result when one family is involved in both types of custody proceedings because the judges are using different information to make the same determination.¹⁰⁷

III. DISCUSSION

Legislatures and legal organizations throughout the country and Illinois have designed and implemented specific laws and models to address the effects of court fragmentation.¹⁰⁸ The UFC model is a nationally recognized model intended to resolve issues of inefficiency

98. 750 ILL. COMP. STAT. 5/602 (2004 & West Supp. 2005); 705 ILL. COMP. STAT. 405/2-10 (2004 & West Supp. 2005).

99. See Hardin, *supra* note 1, at 150 (explaining the different procedures involved in child protection cases versus other types of family court cases).

100. 705 ILL. COMP. STAT. 405/1-2(1), 3(c) (2004) ("The parents' right to the custody of their child shall not prevail when the court determines that it is contrary to the health, safety and best interests of the child."); *In re J.J.*, 566 N.E.2d 1345, 1349 (Ill. 1991).

101. 750 ILL. COMP. STAT. 5/102 (2004); 750 ILL. COMP. STAT. 60/102 (2004).

102. 750 ILL. COMP. STAT. 5/602.

103. Hardin, *supra* note 1, at 151.

104. *Id.*; 705 ILL. COMP. STAT. 405/1-2(1) (2004).

105. *Id.*; 705 ILL. COMP. STAT. 405/2-10.1 (2004 & West Supp. 2005).

106. Hardin, *supra* note 1, at 151.

107. See Hardin, *supra* note 1, at 161 (explaining that custody decisions in child protection cases are more difficult than those custody cases during marital dissolution and that a wide range of issues are before the judge besides the child's custody and placement).

108. See *supra* Part III (discussing the UFC model and various Illinois laws).

and conflict that arise with family-related court issues.¹⁰⁹ Versions of the UFC model are already operating in two counties in Illinois.¹¹⁰ Additionally, in Illinois, the Uniform Child Custody Jurisdiction and Enforcement Act contains specific language requiring parties involved in child custody and visitation matters to inform the court of any similar pending proceedings.¹¹¹ Several Illinois circuit courts have local rules and general orders that also contain clauses pertaining to the coordination of cases involving the same family.¹¹²

This Part considers each of these laws and models and how they address case coordination.¹¹³ First, this Part gives an overview of the UFC model from its historic development to its theoretical and practical usage in Illinois and other jurisdictions.¹¹⁴ Second, this Part discusses the Uniform Child Custody Jurisdiction and Enforcement Act and its provisions.¹¹⁵ Finally, this Part reviews the various Illinois circuit court rules that mandate some coordination of cases involving the same family.¹¹⁶

A. *Unified Family Courts*

1. History of the Unified Family Court Model

Unified family courts bring all the legal issues surrounding a family into a single court.¹¹⁷ A UFC is a separately administered court with jurisdiction over a large range of family-related issues¹¹⁸ such as custody, child support, divorce, domestic violence, juvenile

109. See Babb, *supra* note 3, at 31–32 (discussing problems with fragmented court systems and how UFCs address such problems); see also Herbert Belgrad, *An Introduction to Unified Family Courts from the American Bar Association's Perspective*, 37 FAM. L.Q. 329, 329 (2003) (describing the American Bar Association's endorsement of the model and implementation throughout the country).

110. See Center for Analysis of Alternative Dispute Resolution Systems, *supra* note 15 (listing alternative dispute resolution programs in the state and federal courts in Illinois).

111. Uniform Child-Custody Jurisdiction and Enforcement Act, 750 ILL. COMP. STAT. 36/209 (2004).

112. See *supra* Part III.C (discussing the rules adopted by some of the Illinois circuit courts).

113. See *supra* Part III (describing the UFC model, the Uniform Child Custody Jurisdiction and Enforcement Act, and local circuit rules and their impact on case coordination).

114. See *infra* Part III.A (discussing the history, components, and scope of UFCs).

115. See *supra* Part III.B (explaining the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act).

116. See *supra* Part III.C (examining specific Illinois circuit court rules that involve case coordination).

117. Hardin, *supra* note 1, at 148 (“[T]he term ‘unified family court’ means a specialized and separately administered court with jurisdiction over a wide range of family-related cases.”).

118. *Id.* (explaining that a UFC is a court that has jurisdiction over a large range of family related issues).

delinquency, all phases of abuse, neglect, and dependency cases, adoption, and guardianship.¹¹⁹

The UFC idea has been around for decades, but the American Bar Association (ABA) officially supported its implementation nationwide within the past thirteen years.¹²⁰ The ABA-approved UFC model sets out specific components to be part of each court.¹²¹ However, jurisdictions implementing UFCs vary the components based on their individual needs.¹²²

Cincinnati, Ohio established the first UFC in 1914.¹²³ However, the model did not receive national recognition until the 1980s.¹²⁴ At that time, the ABA started to adopt standards attempting to curb the problems resulting from fragmented family court systems.¹²⁵ Later, in 1991, the National Council of Juvenile and Family Court Judges published their recommendations for a model family court,¹²⁶ and, in 1993, the ABA Presidential Working Group on the Unmet Legal Needs of Children officially endorsed the establishment of the UFC model nationwide in its report: *America's Children at Risk: A National Agenda for Legal Action*.¹²⁷ Following the report, the ABA established pilot programs in six jurisdictions in 1996, including one in Chicago, Illinois.¹²⁸ Two years later, over thirty states sent representatives to the ABA's National Leadership Summit on Unified Family Courts.¹²⁹ By 1998, twenty-three states and the District of Columbia operated some form of the UFC model.¹³⁰ Today, the ABA's Unified Family Court Coordinating Council provides support and coordination for models nationwide.¹³¹

119. *Id.*; Unified family courts may also include criminal issues arising from the same set of facts involved in the family's other legal matters. However, this Article will not address such issues.

120. See Belgrad, *supra* note 109, at 329 (reporting that the UFC model was first implemented in 1914). ABA POLICY ON UNIFIED FAMILY COURTS (1994).

121. ABA POLICY ON UNIFIED FAMILY COURTS, at xv-xxii.

122. Geraghty & Mlyniec, *supra* note 16, at 436; Schwarz, *supra* note 12, at 305; see also *infra* Part III.A (explaining how specific jurisdictions' UFCs vary).

123. Belgrad, *supra* note 109, at 329.

124. *Id.* (explaining that the American Bar Association did not address UFC systems until its mid-year meeting in 1980).

125. *Id.*

126. LINDA ELROD, CHILD CUSTODY PRACTICE AND PROCEDURE § 1:13 (1993 & Supp. 2005).

127. *Id.*

128. *Id.*

129. *Id.*

130. *Family Court Reform Merits High Priority*, WIS. ST. J., July 14, 2003, at A6.

131. Belgrad, *supra* note 109, at 330-31; ABA Coordinating Council on Unified Family

2. The Unified Family Court Model in Theory and in Practice

The UFC model has five elements: 1) “one family, one judge”; 2) comprehensive jurisdiction; 3) efficient administration of case management; 4) broad training for all carefully selected court personnel; and 5) comprehensive services.¹³² The “one family, one judge” element represents the idea of having one judge assigned to hear all related legal matters involving a single family.¹³³ It is at the heart of any UFC system and its purpose is to increase efficiency.¹³⁴ A broad jurisdictional basis will increase efficiency because it allows one court to have subject matter jurisdiction over a number of cases involving a family, such as divorce, domestic violence, and child welfare.¹³⁵ The model also urges careful selection and training of all court personnel involved in the family court process because a judge and his or her personnel must be able to fulfill many roles in relation to one family.¹³⁶ Finally, under the UFC model, the court provides comprehensive services to families to address all of their social and emotional needs in a “one-stop shop” manner.¹³⁷

Although most UFCs share the above components, UFCs vary according to the needs and constraints of each jurisdiction.¹³⁸ Many jurisdictions pick and choose which legal issues they will permit UFCs to hear.¹³⁹ For example, among those surveyed by the ABA in 2003, every jurisdiction granted its UFCs subject matter jurisdiction over custody, paternity, support, juvenile delinquency, visitation, child abuse and neglect, adoption, and divorce.¹⁴⁰ However, not every UFC had

Courts, <http://www.abanet.org/unifiedfamcrt/home.html> (last visited Mar. 24, 2006).

132. May, *supra* note 13, at 577–78.

133. *Id.* at 576.

134. *Id.* The UFC model is “based on the notion that court effectiveness and efficiency increase when the court resolves a family’s legal problems in as few appearances as possible,” a result that is likely to occur when the same judge hears all of a family’s legal matters. *Id.* at 577–78.

135. Schwarz, *supra* note 12, at 305 (explaining that because family members are often involved in several legal actions in various courts, a UFC should have broad jurisdiction so that one judge in one court can handle all of a family’s legal actions).

136. *Id.* at 306 (describing the comprehensive nature of UFCs that require judges and court personnel to be familiar with the psychological and social issues that a family may face and the services available to them).

137. *Id.* (explaining that a UFC should provide a “multitude of services,” including alternatives to litigation, social services, and community resources, such as counseling and volunteer programs).

138. Geraghty & Mlyniec, *supra* note 16, at 436; Schwarz, *supra* note 12, at 305.

139. Geraghty & Mlyniec, *supra* note 16, at 436.

140. Shepard & Bozzomo, *supra* note 73, at 335.

jurisdiction over foster care, status, or domestic violence cases.¹⁴¹

Each jurisdiction may also have its own ways of managing cases and staffing the court; and different services may be available to the court depending on the specific needs and resources of the community.¹⁴² For example, various counties in California restructured their family, probate, and juvenile courts to create their own versions of a UFC.¹⁴³ Some counties actually consolidated their courts, while one county created a tracking and evaluation system to identify families with multiple cases so that one judge could hear them.¹⁴⁴ Somewhat similarly, Oregon's model screens families involved in multiple cases to place them at one of three "levels of services" that the court offers.¹⁴⁵

3. The Unified Family Court Model in Illinois

Illinois, like other states, began examining the UFC model when the ABA endorsed it.¹⁴⁶ In 1994, top state officials from each branch of the Illinois state government convened a summit to address problems in the juvenile court systems.¹⁴⁷ The summit indicated its intent to continue

141. *Id.* Of those surveyed, Washington was the only UFC jurisdiction that did not have jurisdiction over foster care cases and over every type of status offense. *Id.* Ninety-four percent of the jurisdictions surveyed had subject matter jurisdiction over domestic violence cases. *Id.*

142. Schwarz, *supra* note 12, at 305.

143. Donna M. Petre, *Unified Family Court: A California Proposal Revisited*, 1 J. CENTER FOR CHILD. & CTS. 161, 161 (1999). Yolo County's UFC began with the transfer of its probate guardianships cases to the family department, and as of 1999, it had jurisdiction over several issues, including juvenile cases, divorces, adoptions, child support, child custody, and visitation. *Id.* at 162. Butte County created a therapeutic court to allow families with multiple court filings to have their cases heard together in front of one judge with jurisdiction over family, probate, juvenile, criminal, traffic, and district attorney family support cases. *Id.* at 163. The judges in San Francisco's UFC primarily hear family, delinquency, and dependency cases with jurisdiction extending to any case that is subsequently filed concerning a family that has already come before one of the judges. *Id.*

144. *Id.* Under the system created by the H.O.P.E. (Helping Organize Parents Effectively) Court in Butte County, agencies nominate families to the court's coordinator, "who then searches for active cases involving any member of the nominating families." *Id.* The families' case summaries are given to a reviewing committee, who evaluates the cases and families and "decides whether to accept the family into the court." *Id.*

145. Schwarz, *supra* note 12, at 315. On level one, all of a family's active and inactive cases get grouped together and assigned to the judge who has been most involved with that family. *Id.* On level two, all prior, pending, and future cases concerning a family get permanently assigned to that judge. *Id.* On level three, interested families may receive a "comprehensive family plan and integration of services." *Id.*

146. See Andrew Gottesman, *Top Leaders Vow Child Welfare Solutions*, CHI. TRIB., Jan. 11, 1994, at 1 (discussing summit meeting of top Illinois leaders conducted in 1994 to address problems and solutions within the juvenile justice, child welfare, and juvenile court systems).

147. *Id.* The summit was organized by Chief Judge of the Circuit Court Harry Comerford and participants included Governor Jim Edgar, Cook County Board President Richard Phelan, Illinois House Speaker Michael Madigan (D-Chicago), Illinois Senate President James "Pate" Philip (R-

addressing various deficiencies in the system and to examine a proposal to establish a UFC.¹⁴⁸ That same year, efforts to develop a pilot family court program in Cook County began.¹⁴⁹ The Fifth Municipal District of Cook County established the Unified Family Court Pilot Project in 1997.¹⁵⁰ Implemented in Bridgeview, Illinois, the Pilot Project handled divorce cases and other related matters, such as child support, collection, and civil orders of protection, with plans to incorporate juvenile delinquency and child protection matters.¹⁵¹

Elsewhere, DuPage County created a Unified Family Court Task Force in 1996 to study the problems affecting family courts in the county.¹⁵² In 1997, it implemented components of the UFC model and a data collection system that cross-referenced parties involved in cases in different divisions.¹⁵³ Beyond the DuPage and Bridgeview models, no other areas of the state have UFCs established.

B. Uniform Child Custody Jurisdiction and Enforcement Act

Despite the fact that Illinois has not adopted the UFC model throughout the state, an Illinois law discretely addresses the issue of case coordination that UFCs attempt to resolve.¹⁵⁴ The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) took effect in January 2004, clarifying its predecessor, the Uniform Child Custody Jurisdiction Act (UCCJA).¹⁵⁵ Illinois enacted the UCCJA to address

Wood Dale), Senate Minority Leader Emil Jones (D-Chicago), and Representative Judy Biggert (R-Hinsdale). *Id.*

148. *Id.*

149. M.A. Stapleton, *Grant Proposal Aims for Unified Family Court*, CHI. DAILY L. BULL., Dec. 1, 1994, at 1 (discussing a grant proposal by the University of Illinois at Chicago to fund a nine-month study to create a "blueprint for a demonstration family court in Cook County," a study that the executive director of the Chicago Bar Foundations stated was a starting point for creating a UFC).

150. John Flynn Rooney, *5th Municipal District Opens Unified Family Court Project*, CHI. DAILY L. BULL., July 22, 1997, at 1 (stating that Cook County Associate Judge Susan Snow was assigned to head the Unified Family Court Project beginning in 1995, but she heard her first case in 1997).

151. *Id.* The Bridgeview Unified Family Court Pilot Project is currently in effect under the "pilot project" title. *See infra* Part IV.A.2 (explaining the project's failure to include juvenile court matters or to expand county-wide).

152. Art Barnum, *Judge to Try "Better Way" to Family Justice: DuPage to Debut New Domestic Court*, CHI. TRIB., Dec. 30, 1997, at 1. Such problems included spouses going before three different judges in divorce court, juvenile court, and domestic violence court about related cases, and ninety percent of juvenile crimes being committed by juveniles from "broken or dysfunctional homes." *Id.*

153. *Id.*

154. *See* 750 ILL. COMP. STAT. 36/209 (2004) (requiring petitioners to give notice of pending custody proceedings in other courts).

155. Celia Guzaldo Gamrath, *UCCJEA: A New Approach to Custody Jurisdiction and*

the increasing number of interstate child custody cases and jurisdictional disputes that arise in custody and visitation proceedings.¹⁵⁶ Today, the UCCJEA attempts to clarify ambiguous provisions of the UCCJA, whose purpose was to “avoid jurisdictional competition and conflict between states, to protect the child’s best interest, and to discourage forum shopping.”¹⁵⁷ All parties involved in custody proceedings under the Dissolution of Marriage Act must follow the provisions of the UCCJEA.¹⁵⁸

The UCCJEA gives specific notice requirements to petitioners and prioritizes home-state jurisdiction for child custody matters that involve parties living in different states.¹⁵⁹ Among other provisions, it specifically requires each party in a child custody proceeding to state in its pleading or affidavit whether the party has participated in, or knows of, any other proceeding relating to the custody or visitation of the child.¹⁶⁰ Under the statute, each party also has a “continuing duty to inform the court of any proceeding in *this* or any other state that could affect the current proceeding.”¹⁶¹

On its face, it appears that the language of this statute provides for assurance that a court will be properly notified when another proceeding involving a child’s custody is pending in a different court.¹⁶² However,

Interstate Custody and Visitation, 92 ILL. B.J. 204, 204 (2004). The UCCJA was originally enacted in Illinois in 1979. 750 ILL. COMP. STAT. 35/1 (repealed 2004).

156. Gamrath, *supra* note 155, at 204.

157. *Id.*

158. 750 ILL. COMP. STAT. 5/601(a) (2004).

159. Under the UCCJEA, “home state” is defined as:

the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

750 ILL. COMP. STAT. 36/102(7) (2004).

160. 750 ILL. COMP. STAT. 36/209(a)(i)–(ii).

161. 750 ILL. COMP. STAT. 36/209(d) (emphasis added).

162. *Id.* Under the UCCJEA, the following is included in the information to be submitted to the court:

(a) . . . The pleading or affidavit must state whether the party:

(1) has participated, as a party or witness or in any other capacity, in *any other proceeding* concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child-custody determination, if any;

(2) knows of *any proceeding* that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and

(3) knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or

the original purpose of the UCCJA calls into question its effectiveness in resolving the issue.¹⁶³ The purpose of the UCCJEA and the original UCCJA is to resolve the increasing number of child custody disputes over state lines.¹⁶⁴ In accord with that purpose, the notification requirement seems to only bind parties in interstate, not intrastate, custody disputes.¹⁶⁵

C. Local Circuit Rules

Every Illinois circuit court but one has local rules governing their specific circuit's jurisdiction.¹⁶⁶ Most of the courts have rules relating to "matrimonial" cases, and some of the courts have rules governing juvenile cases.¹⁶⁷ However, only a few Illinois circuit courts have specific rules pertaining to the coordination of cases dealing with the same family.¹⁶⁸

visitation with, the child and, if so, the names and addresses of the persons.

(b) If the information required by subsection (a) is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(c) If the declaration as to any of the items described in subsection (a)(1) through (3) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(d) Each party has a continuing duty to inform the court of any proceeding in *this* or any other state that could affect the current proceeding.

750 ILL. COMP. STAT. 36/209(a)–(d) (emphasis added).

163. See Gamrath, *supra* note 155, at 204 (explaining that the purpose of the UCCJA is to resolve interstate custody issues, not intrastate custody issues).

164. *Id.*; see also 750 ILL. COMP. STAT. 35/2 (repealed 2004) (stating that the purpose of the Act is to promote cooperation and avoid jurisdictional competition between states in matters of child custody).

165. See 750 ILL. COMP. STAT. 5/601 (2004) (granting a court with jurisdiction to decide custody matters the power to make custody determinations).

166. ILLINOIS COURT RULES AND PROCEDURE (2005). The Seventh Circuit Court of Illinois does not have any local rules. *Id.*

167. *Id.* The First Judicial Circuit Court rules contain an administrative order requiring parties involved in child custody and visitation disputes to participate in a court referred mediation program. ILL. 1ST J. CIR. ADMIN. ORDERS (2005). Other circuits have similar mandatory settlement conferences for dissolution of marriage and child custody proceedings. See ILL. 2D J. CIR. R. 19(C) (requiring the court to conduct a settlement conference for all contested pre-judgment dissolution of marriage cases and allowing the court to mandate a settlement conference for any other case under the Illinois Marriage and Dissolution of Marriage Act, the Illinois Domestic Relations Act, or the Illinois Adoption Act).

168. ILL. CIR. CT. COOK COUNTY, GENERAL ORDER 1.6 (directing judges in specific procedures for dealing with multiple cases involving the same child); ILL. 16TH J. CIR., R. 15.5, Domestic Violence Order of Protection (2005) (requiring that domestic violence cases related to pending divorce cases be heard by the judge assigned to the divorce case); ILL. 20TH J. CIR., R. 8.05 (2005) (requiring that domestic violence cases related to pending divorce cases be heard by

The General Orders of the Circuit Court of Cook County contain a provision that addresses multiple cases involving the same child.¹⁶⁹ The order details specific procedures for judges to follow when dealing with issues of visitation, custody, guardianship, abuse, neglect, or dependency in situations in which a petition is pending in Cook County's Child Protection Division and a case involving the same family is also pending in another division.¹⁷⁰ Under the order (Cook County's Coordination Rule), the judges are required to confer regarding the best way to go forward given the multiple hearings and to determine who should preside over the related matters.¹⁷¹ Such a rule ensures that judges will communicate with each other on matters involving the same child, but similar requirements do not exist in any other circuit court.¹⁷²

The Sixteenth and the Twentieth Judicial Circuit Courts require that domestic violence issues relating to a pending dissolution of marriage case be heard by the judge that is assigned to the dissolution case, with an exception for emergency orders of protection.¹⁷³ In these situations, the circuit courts conserve resources by allowing the parties to have both matters heard by the same judge.¹⁷⁴ However, these circuits do not call for the same judicial coordination in matters of abuse, neglect or dependency and divorce.¹⁷⁵ When a child protection case is

the judge assigned to the divorce case, with the exception for emergency orders of protection).

169. The following order requires a judge, hearing a case involving a child, to confer with any other judge who is also presiding over a case involving that same child:

(a) The judges involved shall confer as often as needed and jointly determine which court shall control and hear said issues as set forth above and shall consider the impact of such orders on siblings, relatives and parties in each case. Where a matter has been pending in a division other than the Child Protection Division, the Child Protection Division and the other involved judiciary will consider the impact, significance and consequences of the Child Protection Division proceeding on the prior pending matters when determining which court will proceed on such issues.

(b) Any judge, in any division, hearing a case involving a family who becomes aware that a petition involving a child of that family is pending in the Child Protection Division, may direct the Clerk of the Court to transmit a copy of all pleadings and orders that relate to the child to the judge hearing the case in the Child Protection Division.

ILL. CIR. CT. COOK COUNTY, GENERAL ORDER 1.6.

170. *Id.*

171. *Id.*

172. See ILLINOIS COURT RULES AND PROCEDURE (2005) (including no similar requirements in other circuit courts).

173. ILL. 16TH J. CIR., R. 15.5, Domestic Violence Order of Protection; ILL. 20TH J. CIR. CT., R. 8.05.

174. ILL. 16TH J. CIR., R. 15.5, Domestic Violence Order of Protection; ILL. 20TH J. CIR. CT., R. 8.05.

175. ILL. 16TH J. CIR., R. 15.5, Domestic Violence Order of Protection; ILL. 20TH J. CIR. CT.,

simultaneously being heard with a divorce proceeding involving the same family, these matters are still heard by different judges in different courtrooms.¹⁷⁶

IV. ANALYSIS

Without specific statewide rules requiring case coordination and communication among the courts in Illinois, a great potential for conflict and confusion still exists.¹⁷⁷ This Part analyzes the current laws and proposals designed to alleviate such confusion and to encourage better coordination.¹⁷⁸ The Part first considers the UFC model and how it may be applied to Illinois courts.¹⁷⁹ This Part examines the criticisms of the model and the barriers to implementation that exist in many jurisdictions and highlights the model's strengths and the support it has earned from practitioners.¹⁸⁰ This Part also analyzes how other states and two circuits in Illinois implemented UFCs in their jurisdictions.¹⁸¹ The second Part evaluates whether the Uniform Child Custody Jurisdiction and Enforcement Act may resolve coordination problems in Illinois.¹⁸²

A. *Unified Family Court Model*

In spite of strong support for UFCs, critics remain skeptical over several aspects of the system while states and localities confront difficulties when trying to implement the system in their particular jurisdiction.¹⁸³ This Part first discusses the criticisms of the UFC model, and the barriers that many states and localities confront in its implementation.¹⁸⁴ This Part then discusses the strengths of the system

R. 8.05.

176. ILL. 16TH J. CIR., R. 15.5, Domestic Violence Order of Protection; ILL. 20TH J. CIR. CT., R. 8.05.

177. *Compare* ILLINOIS COURT RULES AND PROCEDURE (2005) (specifying no procedures for judges to follow when hearing a case concerning a family involved in an abuse and neglect case and a dissolution of marriage case, except for General Order No. 1.6, Coordination of Cases Involving Children in the Circuit Court of Cook County General Orders), *with Babb supra* note 3, at 31 (discussing the problems arising under fragmented court systems). But see *infra* Addendum for an analysis of the recently adopted Illinois Supreme Court Rules and their potential impact on achieving case coordination throughout Illinois.

178. *See infra* Part IV (analyzing the potential of Illinois courts to follow the UFC model).

179. *See infra* Part IV.A (discussing the UFC model).

180. *See infra* Parts IV.A.1–3 (reviewing the strengths and weaknesses of the UFC model).

181. *See infra* Part IV.A (comparing the different approaches that other jurisdictions employ).

182. *See infra* Part IV.B (discussing the UCCJEA).

183. *See supra* Parts III.A.1–3 (referencing the supporters and critics of the UFC system as well as those who have been confronted with difficulties when implementing the system).

184. *See infra* Part IV.A.1–2 (discussing the criticisms of the UFC model and the barriers to

and concludes by specifying the factors that jurisdictions should consider when deciding whether to implement a UFC system in light of the criticisms and barriers to implementation that the model faces.¹⁸⁵

1. Criticisms of the UFC Model

Critics of the UFC model question the model's "one family, one judge" component.¹⁸⁶ They also remain hesitant about implementing such a comprehensive program without more detailed assessments of its success.¹⁸⁷

Due to the amount of power given to one individual judge to make important decisions about the family, critics of the UFC model primarily doubt the benefits of a "one family, one judge" structure.¹⁸⁸ Under the UFC model, a single judge has access to information that would not otherwise be admissible in certain proceedings.¹⁸⁹ With this access, a single judge has immense discretion to make decisions regarding which services a family should be required to undergo.¹⁹⁰ There is also a concern that judges may hold a bias against certain litigants when hearing all related matters involving that litigant.¹⁹¹ For instance, a judge who hears allegations that a father abused his child may show prejudice against the father when later deciding his custody rights in a divorce case, even if the allegations of abuse are dismissed.¹⁹² However, jurisdictions that raise such concerns note that

its implementation).

185. See *infra* Part IV.A.3-4 (discussing the strengths of the model and the factors that those considering implementing a UFC should consider).

186. See Geraghty & Mlyniec, *supra* note 16, at 438 (addressing concerns with "one family, one judge" structure); see also Justin M. Norton, *Family Circle: Santa Clara County is Testing a 'Unified' Court in Which One Judge Hears a Variety of Family Law-Related Cases*, RECORDER, Jan. 25, 2005, at 1 (indicating attorneys' concerns about practicing before only one judge). Some attorneys in Santa Clara County expressed their concerns that having only one judge in family court would make the judge biased against certain defendants, with the possibility that "a judge hearing accusations of child abuse in a custody case could then have difficulty being impartial in a domestic violence case against the alleged abuser." *Id.*

187. Norton, *supra* note 186; See Geraghty & Mlyniec, *supra* note 16, at 446 (noting that little evidence exists to prove that UFCs have been able to achieve their specified goals).

188. Schepard & Bozzomo, *supra* note 73, at 341. In UFCs that provide therapeutic justice, a single judge has the power to require parents and children to participate in education, mediation, and therapy while also having the power "to create or destroy parent-child relationships, and to confine a juvenile to the equivalent of jail." *Id.*

189. *Id.*

190. *Id.*

191. *Id.* at 343.

192. See Geraghty & Mlyniec, *supra* note 16, at 439 (explaining that it is nearly impossible for a judge hearing a domestic violence case involving parents previously before him because of child abuse allegations to disregard the conduct of each parent in those abuse proceedings when assessing the credibility of each parent in the domestic violence case).

their reservations do not overshadow the benefits inherent in the UFCs' provision of efficient and therapeutic justice.¹⁹³ The risks posed by a biased or overreaching judge in a UFC "pale by comparison" to the chaos that families already in crisis must undergo in a fragmented court system.¹⁹⁴ Moreover, parties retain their appellate rights to address problems with judicial bias or due process.¹⁹⁵

Critics of the "one family, one judge" structure also worry about the experience and expertise of the judges presiding over these cases.¹⁹⁶ It is often the case that judges get assigned to family or juvenile courts with little, if any, experience or training in such areas of the law.¹⁹⁷ With responsibility over a number of types of cases, the judge presiding over a UFC must know various areas of the law¹⁹⁸ and about the variety of treatment and services available to families from different agencies.¹⁹⁹ For example, a child may be experiencing emotional and behavior disorders while the child's parents may also exhibit mental health problems.²⁰⁰ An experienced judge will know which factors to look for to identify such problems and how to act on such information.²⁰¹ For the UFC model to be successful, judges must be given time to gain this critical type of expertise.²⁰² The judge must also hold a commitment to the area of juvenile and family law, given the vast task with which the judge is charged²⁰³ and the tendency to burnout

193. *Id.*

194. Shepard & Bozzomo, *supra* note 73, at 341.

195. *Id.* at 342.

196. Norton, *supra* note 186; see Geraghty & Mlyniec, *supra* note 16, at 440 (stating that, under the "one family, one judge" structure, "[f]amilies that must submit to a burned-out judge or one ill prepared for the task of curing family dysfunction may be worse off than they would have been in a court of [f] general jurisdiction.").

197. See May, *supra* note 13, at 588 (discussing the critique of the "one family, one judge" structure that judges may lack the expertise and social science training necessary to effectively resolve complex family disputes).

198. *Id.*

199. Hardin, *supra* note 1, at 170, 174.

200. See *id.* at 170 (describing a case involving a child with emotional and developmental disorders and a mother with a schizotypal personality disorder).

201. *Id.* at 171, 173 (stating that judges involved in child protection case require the ability to sift through specific facts of each case to determine the proper resolution for a case and the appropriate treatment plans necessary to achieve the goal decided on); see May, *supra* note 13, at 588 (explaining that experienced and trained judges will know which questions to ask professionals from other fields and what to do with those responses).

202. Hardin, *supra* note 1, at 170. See May, *supra* note 13, at 590 (noting that supporters of the UFC system emphasize that UFCs are committed to training judges and staff).

203. Hardin, *supra* note 1, at 170. According to some family court judges, "the desire to serve as a family court judge may be one of the most important factors in avoiding burnout." May, *supra* note 13, at 591.

when dealing with intense emotional matters.²⁰⁴ Because the UFC model is based on the idea of a single judge hearing cases involving a single family, its biggest challenge is finding experienced and committed judges.²⁰⁵

Besides worries about the “one family, one judge” approach, critics argue that there is little evidence detailing the model’s actual success.²⁰⁶ Critics point to the lack of formal studies evaluating the UFC model, even though anecdotal evidence demonstrates its success.²⁰⁷ Critics also charge that a UFC is harder to administer in urban areas where court dockets are so large.²⁰⁸

2. Barriers to Implementation

Disregarding the critiques of the UFC model, practical barriers may prevent its implementation.²⁰⁹ The main barriers that seem to prohibit jurisdictions from implementing or expanding UFCs are the large fiscal requirements of the model and the number of people involved in its

204. See Williams, *supra* note 5, at 402 (citing critics’ concern that “family court judges must daily face an overflowing docket of emotionally-charged, family-related cases without reprieve, and they will eventually reach judicial exhaustion or ‘burnout.’”).

205. Schepard & Bozzomo, *supra* note 73, at 343–44. Because the UFC judge is “the court’s face to the public, the managers of its multidisciplinary operations, and the decision-makers of last resort for parents and children,” it is important to attract and retain “passionate and knowledgeable judges” in order to have a high quality UFC system. *Id.*

206. Geraghty & Mlyniec, *supra* note 16, at 446.

207. *Id.* Even though formal assessments of the model are lacking, states and localities with UFCs are satisfied with the results. *Id.* at 446; see Schepard & Bozzomo, *supra* note 73 (indicating state’s satisfaction with the model in those jurisdictions where it has been implemented). Anecdotal evidence of the success of the UFC model is available from many states and localities around the country. Hawaii’s UFC structure successfully allows judges to communicate more often and more effectively than its previous structure. Schwarz, *supra* note 12, at 315; HAW. REV. STAT. §751-11 (2004). New Jersey’s UFC system, implemented in 1983, is more efficient and responsive than its previous system, with greater satisfaction among families and improved job performance among judges. Ross, *supra* note 84, at 30, 31 (noting that lawyers involved in New Jersey’s UFC who were originally resistant to its creation “learned through experience that their clients were happier under the new system, which was more efficient and responsive. Judges, too, report both greater job satisfaction and improved job performance.”). Families in Portland, Oregon, are “better served” by the county’s UFC system, experiencing fewer delays and proceedings. *Id.* at 32. “Litigants are better served by [the unified family court] system because they endure fewer court proceedings and delays. Parties—and especially their children—emerge from the process much less traumatized than litigants who had to endure the old system.” *Id.* Even Illinois’ Bridgeview UFC has achieved satisfactory results. John Flynn Rooney, *After Two Decades, Jurist Sketches Out a New Career*, CHI. DAILY L. BULL., Dec. 17, 1999. Judge Susan Snow, the former head of the Bridgeview Unified Family Court Pilot Project, stated in 1999 that “the project [was] running well,” with families involved in divorce, paternity, domestic violence, and guardianship cases being assigned to one judge with a case manager to oversee court matters. *Id.*

208. Stapleton, *supra* note 83, at 1.

209. See *supra* Part IV.A.1 (discussing criticisms of the UFC model).

implementation.²¹⁰ For example, the Bridgeview Unified Family Court Pilot Project has yet to add juvenile court matters or to expand countywide, as originally intended, despite its organizer's satisfaction with the model²¹¹ because of a lack of funding²¹² and because of an institutional unwillingness to undergo changes that may take several administrations.²¹³

The number of changes required by the UFC model—improving legal and social services, centralizing the family court system, employing specially trained judges and case managers, and providing sufficient social services—can be expensive.²¹⁴ Depending on state and county budget constraints, the implementation of a costly system may not be fiscally practical.²¹⁵

Furthermore, judges, court personnel, and other interested parties may be reluctant to support changes to a “firmly entrenched system” like a state’s court structure.²¹⁶ People may simply be unwilling to undertake the hard work that implementing a UFC requires because of the potential for disruption and changes in positions and responsibilities.²¹⁷ Even without such resistance, challenges with logistical matters, such as the types of cases to cover²¹⁸ and finding staff

210. May, *supra* note 13, at 588; *see also* Geraghty & Mlyniec, *supra* note 16, at 445 (stating that the UFC implemented in the District of Columbia cost an estimated eighteen million dollars); Margery Gordon, *Roadblocks to Reform: Special Report: Family Law*, MIAMI DAILY BUS. REV., May 17, 2005, at 1 (referencing the Florida’s Supreme Court warning that the lack of funding for a UFC system may “imperil” the efforts to create such a system).

211. Telephone Interview with Anne Sheldon, Court Administrator, Cook County Unified Family Court Pilot Project, (Oct. 7, 2005); E-mail from Susan Snow, Retired Judge, Unified Family Court Pilot Project, to Amy Kosanovich, Law Student, Loyola University Chicago (Oct. 29, 2005) (on file with author).

212. Telephone Interview with Anne Sheldon, *supra* note 211. Sheldon stated that unifying Cook County as a whole was difficult financially, given that the amount of space, staff, and courtrooms required for the system all cost money. *Id.*

213. *Id.* (stating that funding a UFC system may divert resources from other priorities in the government). E-mail from Susan Snow, *supra* note 211 (discussing the “institutional resistance to administrative change” that Bridgeview’s UFC model created). Judge Snow believes that the resistance to staffing child protection cases in Bridgeview seemed to be in part because of the fact that it would take away staff from the Juvenile Court Building, as the model called for staff from the States Attorney, the Public Guardian, and the Public Defender to be on site at least three days a week or on call and mobile. *Id.* Judge Snow also discusses how judges assigned to the Domestic Relations Divisions were not as interested in hearing juvenile court cases, nor were the Juvenile Court judges interested in hearing divorce cases. *Id.*

214. May, *supra* note 13, at 588.

215. *Id.*

216. Gordon, *supra* note 210, at 1.

217. *Id.*

218. Gale M. Phelps & Susan Macey Thompson, *Bench Bar Summary: Thoughts on a Unified Family Court System in Marion County*, IND. LAW., Aug. 30, 2000, at 19 (noting that there is

members who are experienced, unbiased, and willing to run such a comprehensive court system, still remain.²¹⁹

3. Strengths of the UFC Model

Notwithstanding the criticisms against it and the practical barriers to implementation, strong support exists for the implementation of the UFC model nationwide.²²⁰ Advocates believe that UFCs will reduce conflicting rulings by different judges.²²¹ According to a 2003 ABA survey, no jurisdiction has returned to its previously fragmented court system after creating a UFC.²²²

The UFC model is widely regarded as a positive solution for the problems of inefficiency and waste that plague fragmented court systems.²²³ First, the model resolves the issue of conflicting decisions imposed on a family.²²⁴ Under the “one family, one judge” structure, one judge presides over all legal matters that affect a family, eliminating conflicting results that may exist in non-unified courts.²²⁵ Second,

general agreement that UFCs should hear some types of cases, such as divorce, protective order, and domestic violence cases, but disagreement as to other types, such as paternity cases).

219. Schepard & Bozzomo, *supra* note 73, at 343.

220. See Geraghty & Mlyniec, *supra* note 16, at 435 (acknowledging the large number of proponents of the model and the large amount that has been written on its potential success).

221. Bill Douthat, *County's "One Family, One Court" Starts in '06*, PALM BEACH POST (Fla.), Sept. 2, 2005, at 4D; see generally May, *supra* note 13, at 592–93 (recognizing the positive impact that the creation of UFCs in Kentucky would have on Kentucky families and social policies); Petre, *supra* note 143, at 164 (recommending that the California Legislature renew discussions about the need for UFCs); Phelps & Thompson, *supra* note 218, at 19 (stating that most participants at an IBA Bench Bar Conference in Bloomington, Indiana, concerning the creation of a UFC system in Marion County, Indiana, agreed that a mechanism should be in place to coordinate cases affecting families and that consistency will be achieved if the same judge presides over cases involving a single family).

222. Schepard & Bozzomo, *supra* note 73, at 342 (noting that no state with a UFC has found the risk of having a “one judge, one family” structure to be so great that they have gone back to their fragmented system).

223. *Id.* at 336; See Williams, *supra* note 5 at 384; (explaining that UFC systems result in a more efficient and compassionate judicial system); see also Barbara A. Babb, *Symposium Editor's Note*, 37 FAM. L.Q. 327, 327–28 (2003) (recalling that she has long been an advocate for the creation of UFCs and that it is her belief that UFCs result in more effective resolutions for families). For a discussion on how the UFC model is aligned with our nation's legal system's goals of efficiency, see Schepard & Bozzomo, *supra* note 73, at 338.

224. See Schepard & Bozzomo, *supra* note 73, at 340 (explaining that judicial systems in which families have their cases heard by multiple judges often result in conflicting decisions); Williams, *supra* note 5 at 384 (recognizing that fragmented court systems can result in conflicting orders for families and that the UFC system is a solution to this problem).

225. See May, *supra* note 13, at 577 (noting that a system that allows families to have all of their related cases heard in one court creates more consistent results for families); see also Schepard & Bozzomo, *supra* note 73, at 340 (explaining that having a single forum where a one judge can hear all of the family's legal matters resolves the problems of conflicting results that fragmented systems pose); Williams, *supra* note 5, at 400 (explaining that the UFC system

UFCs reduce the potential for the duplication of services given to the family because one judge presides over all legal matters.²²⁶ The UFC model enables judges to make informed decisions because all the parties and legal issues are brought into one forum.²²⁷ Also, under the UFC model, a family will recount the facts pertaining to its legal issues only once and will likely reduce its trips to different courtrooms to have its cases heard.²²⁸

Although critics note the risks of bias, inaccuracy, and burnout under the “one family, one judge” structure, the UFC model provides safeguards for such risks.²²⁹ Under the UFC model, judicial selection and retention procedures as well as judicial education can help improve the quality of judges in UFCs and it can help judges properly handle their diverse caseloads.²³⁰

In addition to the benefits from increased efficiency, the UFC model promotes the best interests of the child.²³¹ Rather than just seeking to resolve a family’s legal matters, the UFC model focuses on the entire family, not just the child, to make the emotional lives of the families and children better.²³² The judge and caseworkers involved in a family’s case have the power and resources to provide the necessary emotional and social services to a family under the UFC model.²³³ This service component allows families who are experiencing domestic

promotes consistent results for families).

226. Moran, *supra* note 2, at 494; *see also* May, *supra* note 13, at 590 (contrasting fragmented court systems where judicial resources may be duplicated to UFC systems where this problem is mitigated).

227. Moran, *supra* note 2, at 491 (finding that judges become more certain about the nature and status of related cases when all parties and attorneys come before one judge); *see* May, *supra* note 13, at 577–78 (acknowledging that supporters of UFC systems believe that judges will have more accurate and complete information under a UFC system).

228. Schwarz, *supra* note 12, at 305–06; *see* Moran, *supra* note 2 at 492 (discussing that the consolidation and coordination of related cases under UFC systems limits the number of interviews a child involved in these cases will have to undergo).

229. *See supra* Part IV.A.1 (discussing critics’ concerns about giving so much power to one judge in the “one family, one judge” structure); *see also* Schepard & Bozzomo, *supra* note 73, at 341–42 (arguing that the UFC model provides for procedures to help ensure that judges are trained and properly prepared).

230. Schepard & Bozzomo, *supra* note 73, at 342.

231. Schwarz, *supra* note 12, at 310; *see also* Schepard & Bozzomo, *supra* note 73, at 339 (noting that one of the goals of a UFC system is to make the emotional life of children and families better).

232. Schwarz, *supra* note 12, at 306; *see also* Schepard & Bozzomo, *supra* note 73, at 339–40 (explaining that the UFC model is based on the idea that family members are interconnected and that any court order concerning one family member will likely affect all family members).

233. *See* Schwarz, *supra* note 12, at 306 (arguing for more latitude for judges and caseworkers); *see also* Schepard & Bozzomo, *supra* note 73 at 339–40 (discussing how therapeutic justice is achieved under the UFC systems).

violence to receive recommendations for proper counseling and advocacy programs, something they may not get in a system which compartmentalizes issues into separate courtrooms.²³⁴

Providing such comprehensive services is expensive, but the cost of implementing a UFC system may not necessarily cost more than the fiscal requirements of a traditional court system and it may bring greater value in the long run.²³⁵ Because a fragmented court system often duplicates judicial resources while failing to sufficiently resolve a family's issues, the current system ends up spending money on a "temporary fix" to a family's problems that may end up requiring future judicial resources.²³⁶ The UFC's use of judges, staff, and social services may result in a substantial savings for jurisdictions over time.²³⁷

4. Important Factors to Successfully Implementing a Unified Family Court

Regardless of the challenges and difficulties associated with the UFC model, the benefits inherent in a successful UFC warrant employing the model.²³⁸ However, to make certain that the UFC successfully impacts a community, a jurisdiction considering a UFC should be aware of the difficulties of implementation as well as other factors.²³⁹

In deciding whether to implement a UFC, jurisdictions should closely examine their current court structure to discover whether the UFC model will meet the goals it is trying to achieve.²⁴⁰ Based on a study of

234. See Schwarz, *supra* note 12, at 306 (describing how domestic violence victims will have better access to therapeutic resources under a UFC system with the comprehensive services it provides).

235. May, *supra* note 13, at 590. Three California court systems have successfully created "noteworthy" UFC systems without any additional funding. Petre, *supra* note 143, at 161–62.

236. May, *supra* note 13, at 590.

237. *Id.*

238. See *supra* Part IV.A.1–3 (discussing the criticisms, barriers, and strengths to implementation of the UFC model).

239. See *supra* Part III.A.2 (addressing the theory and practice of the UFC model).

240. Many aspects of a jurisdiction's court system must be examined:

Prior to instituting any significant changes in court structure, however, each state initially should conduct a comprehensive analysis of its existing family law adjudicatory systems. The study should assess the volume of family law cases and the length of time between filing initial pleadings and obtaining temporary and permanent hearings in those cases. It is important to ascertain judges' interest in, sensitivity to, and expertise about family law matters, as well as to determine the number of judges who could participate in any one family's domestic legal matters, either for a single case or for recurrent cases. An examination of court-related and support services must occur in an effort to determine whether and how well these services coordinate with the court system to help resolve families' problems. States must identify both trends in

courts using some form of the UFC model, Barbara Babb, a leading expert on the UFC model, set out specific guidelines for jurisdictions to follow before implementing a UFC in a given area.²⁴¹ She urged each state to “initially . . . conduct a comprehensive analysis of its existing family law adjudicatory systems.”²⁴² In making this analysis, she recommended assessing the average duration of cases, judges’ interests and expertise in family law matters, the number of judges that may potentially be involved in a single family’s case, and an examination of how well support services are coordinated within the court system.²⁴³ The jurisdiction must also balance the community’s needs against budgetary constraints.²⁴⁴ According to Babb, conducting such an assessment allows a jurisdiction to fully evaluate its needs and determine if the UFC model is appropriate.²⁴⁵ If jurisdiction leaders determine that the UFC model fits a jurisdiction’s needs, an assessment will also guide how its own version of a UFC system should be set up.²⁴⁶ A UFC system for a rural state may look extremely different than a UFC for an urban area because of the varying needs and resources of the respective jurisdictions.²⁴⁷

Once a jurisdiction decides to implement a UFC system, organizers should keep two specific factors in mind.²⁴⁸ First, the quality of the judges is the most important factor in a successful UFC.²⁴⁹ Given the strong emphasis on the “one family, one judge” structure in the UFC model, jurisdictions should make certain that the judges presiding over the courts are committed to juvenile and family law issues.²⁵⁰ Second,

family law matters and some sense of the priorities courts systems afford family legal matters.

Babb, *supra* note 3, at 49–50.

241. *Id.* Babb has acted as Co-Chair of the ABA Section of Family Law Committee on Unified Family Courts. *Id.* at 31.

242. *Id.* at 49.

243. *Id.* at 49–50.

244. Shepard & Bozzomo, *supra* note 73, at 349 (noting that this analysis may aid a jurisdiction in determining what method of implementation is appropriate).

245. Babb, *supra* note 3, at 49–50.

246. *See id.* (recommending that states evaluate current court structures to improve problems of fragmentation).

247. Shepard & Bozzomo, *supra* note 73, at 349. This point is of particular concern to Illinois, which consists of both urban and rural areas. *See* Stapleton, *supra* note 83 (describing various concerns about implementing a UFC system in Cook County because of its large docket compared to other counties); *see also supra* Part III.A (offering examples of how jurisdictions vary in their implementation of the UFC model).

248. *See* Shepard & Bozzomo, *supra* note 73, at 343 (stating that the single most important factor in UFCs is the quality of the judges).

249. *Id.*

250. *Id.* at 343–44 (explaining that judges assigned to a UFC should have the desire to devote

a unified group supporting the implementation of the model is equally important to ensure that the UFC gets the staffing and funding it needs to be successful.²⁵¹

B. Uniform Child Custody Jurisdiction and Enforcement Act

As previously discussed, the UCCJEA's effectiveness in requiring parties to give notice of simultaneous custody proceedings in different courts of the same state is questionable because it applies primarily to interstate issues and cases.²⁵² Nonetheless, the language of the UCCJEA appears to require parties involved in custody and visitation proceedings to notify the court of any related proceedings brought under the Juvenile Court Act.²⁵³

The definition of a "child custody proceeding" under the UCCJEA includes a proceeding for "neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence."²⁵⁴ Under this definition, parties involved in custody or visitation hearings in a domestic relations court are required to notify the court of any abuse, neglect, or dependency proceeding in juvenile court.²⁵⁵ Other jurisdictions have also recognized that the purpose of the UCCJEA is not only to resolve interstate disputes but also "to promote and expand the exchange of information, mutual assistance, and cooperation between courts of this and other states concerned with the same child."²⁵⁶ As such, the UCCJEA appears to require notice of proceedings in other divisions of the same state where custody or visitation is involved despite its apparent focus on interstate issues.²⁵⁷

However, it remains unclear whether the UCCJEA requires parties in child protection proceedings to inform courts of pending custody proceedings.²⁵⁸ The Dissolution of Marriage Act explicitly states that

their career to working with families and children and that they should be provided with the resources, support, and incentives to enter and remain in the UFC system).

251. John Flynn Rooney, *Markham to Try Unified Family Court Approach*, CHI. DAILY L. BULL., July 17, 1997, at 3 (referencing Barbara Babb's recommendation for those planning to establish UFC to "develop a large network of interested parties, including judges, prosecutors and other lawyers involved in the system, along with social service agencies").

252. See *supra* Part III.B (discussing the purpose of UCCJEA).

253. See 750 ILL. COMP. STAT. 36/209 (2004) (describing information required to be submitted to the court regarding any other proceedings during a child-custody proceeding).

254. 750 ILL. COMP. STAT. 36/102(4).

255. 750 ILL. COMP. STAT. 36/102(4), 209.

256. *Ehsani v. Ehsani*, 519 So. 2d 288, 290 (La. Ct. App. 1988) (interpreting Louisiana's version of the UCCJA).

257. Gamrath, *supra* note 155, at 204, 206; 750 ILL. COMP. STAT. 36/209.

258. See 705 ILL. COMP. STAT. 405/2-1 (2004) (indicating no reference to the UCCJEA).

the UCCJEA governs custody issues arising under it.²⁵⁹ Parties involved in custody or visitation disputes under the Dissolution of Marriage Act therefore must give notice of pending proceedings under the UCCJEA.²⁶⁰ In contrast, there is no equivalent language in the Juvenile Court Act such that parties involved in abuse, neglect, or dependency proceedings are not necessarily required to inform the juvenile court of pending custody proceedings in a domestic relations court.²⁶¹ Therefore, on its own, the UCCJEA does not guarantee that judges in each court know about other pending proceedings whose outcomes may conflict with their determinations.²⁶²

V. PROPOSAL

Given the serious nature of the problems that may result when custody cases involving the same family are not coordinated properly, Illinois state leaders should examine and implement specific measures that properly and conclusively address fragmentation between and among family and juvenile courts.²⁶³ With its endorsement from the ABA and its comprehensive structure, the UFC model appears to be the best measure available to resolve such issues.²⁶⁴ Granted, certain barriers to implementation may exist within Illinois; but the UFC model's potential for success warrants that Illinois state leaders examine and evaluate the possibility of implementation statewide.²⁶⁵ At a minimum, if full implementation is impractical, specific components of the model can and should be implemented to require courts to communicate and coordinate cases involving the same child.²⁶⁶

Illinois state leaders should also consider adopting two alternative measures if the implementation of the UFC model or any of its components is not feasible.²⁶⁷ First, any petitioner involved in a proceeding about the custody or visitation of a child should be required to give the court notice of any other known proceeding relating to that

259. 750 ILL. COMP. STAT. 5/601(a) (2004).

260. *Id.*

261. See 705 ILL. COMP. STAT. 405/2-1 (indicating no reference to the UCCJEA).

262. See 705 ILL. COMP. STAT. 405/2-1 (indicating no requirement to notify the juvenile court of pending proceedings in other courts).

263. See *supra* Part III (discussing the UFC model).

264. Belgrad, *supra* note 109, at 329.

265. See *supra* Part IV.A.4 (discussing important factors to successfully implementing a UFC).

266. See Geraghty & Mlyniec, *supra* note 16, at 436 (noting that different jurisdictions may adopt different components of the model).

267. See *supra* Part IV.A.2 (discussing barriers to implementation of UFCs).

child.²⁶⁸ This duty to inform the court should continue throughout the entire duration of the proceeding, and it should be required for cases in the juvenile court, domestic relations court, and any other relevant courts.²⁶⁹ Also, similar to Cook County's Coordination Rule, judges should be required to confer once they are put on notice of multiple proceedings affecting the same child.²⁷⁰ Second, the state should require that a juvenile court judge preside when issues about custody and visitation of a child are heard in juvenile court or any other court.²⁷¹

A. Consider Adopting the Unified Family Court Model Statewide

With Illinois' current fragmented system of hearing family-related legal matters, the inefficiency and inconsistency resulting from a lack of court coordination and communication will continue to persist.²⁷² To resolve these problems, the Illinois General Assembly should strongly consider adopting the UFC model.²⁷³

Counties in Illinois have observed the benefits of a UFC system.²⁷⁴ More than ten years ago, various counties in Illinois began evaluating the UFC model and its benefits for resolving the problems inherent in fragmented court systems.²⁷⁵ Illinois should not only continue such evaluations, but it should begin to take more concrete steps to fully implement the UFC model.²⁷⁶

Illinois state leaders should first conduct a thorough evaluation of each of its county's current family and juvenile court structures.²⁷⁷ Such an examination should look at the formal and informal mechanisms that each relevant court has in place for coordinating with

268. See 750 ILL. COMP. STAT. 36/209 (2004) (requiring litigants in a child-custody proceeding to notify the court of any other proceeding concerning the child).

269. See *supra* III.B (analyzing which acts require petitioners to follow UCCJEA).

270. ILL. CIR. CT. COOK COUNTY, GENERAL ORDER 1.6.

271. See Hardin, *supra* note 1, at 164–70 (discussing the resources and experience of a juvenile court judge).

272. See Schwarz, *supra* note 12, at 316 (recommending UFCs be implemented in New York, Pennsylvania, and areas abroad to remedy problems associated with fragmented court systems). See also Stapleton, *supra* note 149 (discussing some UFC supporters' beliefs that the creation of such a system in Cook County will allow a judge to make more informed decisions for families).

273. See *supra* Part II.C (discussing the problems arising under the current court system in Illinois).

274. Rooney, *supra* note 150, at 1.

275. Stapleton, *supra* note 149, at 1.

276. Cf. Babb, *supra* note 3, at 49 (recommending that states conduct evaluations of family court systems).

277. See *id.* (recommending that states, considering the implementation of UFC systems, first evaluate their current family court systems).

each other²⁷⁸ and evaluate the UFC systems in DuPage County and Bridgeview.²⁷⁹ State leaders should look at the components of each system, the success and satisfaction within each court, the improvements the systems have made to the respective circuit court, and the weaknesses they still encounter.²⁸⁰

Illinois should then examine each component of the UFC model and how the components can improve the coordination of services within the circuit courts.²⁸¹ After assessing the compatibility of the UFC model with each particular circuit court, the State should then begin to assess the logistical issues of implementation.²⁸² In doing so, the state leaders need to balance the cost of implementation with State and local budgets.²⁸³ The State should also consider the need for qualified and committed judges as well as community support.²⁸⁴

After thoroughly assessing the UFC model and its applicability to Illinois, state leaders may determine that it is not an appropriate remedy for the state as a whole.²⁸⁵ However, different versions of the model may still be beneficial for different counties.²⁸⁶ Like California counties, which implemented different structures to address their different needs, Illinois counties may still benefit from the model even if, for instance, Cook County's version is dramatically different from that of Will County.²⁸⁷ Regardless, given that so many states have determined that the UFC model is an appropriate and effective solution for fragmentation, the State should completely evaluate its application

278. See *supra* Part III.C (detailing the local rules in Illinois circuit courts that require coordination among judges).

279. See Center for Analysis of Alternative Dispute Resolution Systems, *supra* note 15 (describing the UFC systems in DuPage County and Bridgeview).

280. *Id.*

281. See *supra* Part III.A (describing the components of a UFC).

282. See *supra* Part IV.A.4 (summarizing the major logistical issues related to UFC models).

283. See Schepard & Bozzomo, *supra* note 73, at 349 (discussing budget priorities and constraints of various jurisdictions).

284. See *supra* Part IV.A.4 (discussing the importance of placing a highly qualified judge in a UFC).

285. Stapleton, *supra* note 83, at 1 (referencing Hunter Hurst, Director of the National Center for Juvenile Justice, who stated that the UFC model may not work in all places, and Bernadine Dohrn, Director of the Children and Family Justice Center at Northwestern University Law School, who explained that UFCs "should be implemented on a smaller scale in order to be successful").

286. *Cf. id.* (discussing the advantages of the UFC approach and how most of its problems are tied to docket size, implying that UFCs would work well in smaller jurisdictions).

287. *Cf. Petre, supra* note 143, at 162–64 (detailing the differences between family courts in Yolo County, Butte County, and San Francisco, where the courts vary in the issues over which they have jurisdiction, and they way they accept cases).

in Illinois.²⁸⁸

B. Implement Notice Requirements for All Petitions Involving Child Custody and Visitation

Barring implementation of the UFC model statewide, the Illinois General Assembly or the Illinois Supreme Court should impose specific requirements so that different courts involved with children and families are communicating properly.²⁸⁹ If a jurisdiction cannot implement the UFC model due to funding constraints, the sharing of information between judges in different divisions handling one family's legal matters is the next best solution.²⁹⁰ In Illinois, judges recognize that increased communication between the various court divisions is an immediate step to help prevent the effects of fragmentation in family and juvenile courts.²⁹¹ Accordingly, parties should be required to notify a court of any other pending proceedings that may affect the custody or visitation of a child.²⁹² Judges should also be required to confer with other judges who are hearing matters involving the custody of the same child.²⁹³

Illinois can achieve notice of simultaneous custody proceedings in a number of ways.²⁹⁴ For example, in Columbus, Ohio, such a notice provision is a required component of the city's UFC system.²⁹⁵ Under the system, litigants involved in divorce actions are required to complete an affidavit at the time of filing, disclosing all other related legal matters involving the family.²⁹⁶ Under systems in Palm Beach, Florida and DuPage County, Illinois, case managers search court

288. See *supra* Part IV.A (stating the advantages of the UFC model and responding to its critics).

289. See Gordon, *supra* note 80, at 1 (describing the Palm Beach, Florida Circuit Court's approach when faced with a lack of funding). But see *infra* Addendum for a discussion of the recently adopted Illinois Supreme Court Rules that require such notification and coordination.

290. *Id.* at 1 ("[Palm Beach Circuit Court Magistrate Diane] Kirigan said the most practical and economic approach at this time is having the different judges who are handling a family's matters share information between their different divisions.")

291. See Stapleton *supra* note 83, at 1 (quoting Judge Sophia Hall and National Center for Juvenile Justice Director Hunter Horst in support of this approach).

292. See *supra* Part III.B (explaining current notice requirements under the UCCJEA).

293. See, e.g., ILL. CIR. CT. COOK COUNTY, GENERAL ORDER 1.6 (requiring judges in Cook County to confer when hearing matters involving the same child). Judge Sophia Hall, former presiding judge of Cook County's Juvenile Division, stated that "the amount of communication between various divisions that involve families should be improved." Stapleton, *supra* note 83, at 1.

294. See *supra* Part III.A (providing examples of how various jurisdictions have implemented such notice provisions).

295. Phelps & Thompson, *supra* note 218, at 19.

296. *Id.*

databases for cases with the same names, analyze the information, and inform judges of other cases involving the same family.²⁹⁷

To ensure that all judges with jurisdiction over related matters are given notice of a family's simultaneous proceedings, statutes or court rules should be adopted to require any party involved in a custody or visitation proceeding to inform the court of any other known proceeding about that child.²⁹⁸ This duty should be ongoing throughout the entire proceeding, and it should be required for cases in the juvenile court, domestic relations court, and any other relevant courts.²⁹⁹ In custody and visitation cases arising from divorce, such a rule gives proper notice to the domestic relations judge of any child protection matters that may conflict with the results of the dissolution.³⁰⁰ The rule also gives the juvenile court judge proper notice of any proceedings that may conflict with that judge's findings and determinations.³⁰¹

The language of the UCCJEA, as adopted in Illinois, effectively imposes such requirements on petitioners involved in dissolution of marriage cases. However, because the legislature apparently sought to apply the UCCJEA to interstate custody issues, the legislature should clarify the requirement.³⁰² The legislature should attempt to enact a statewide notice requirement, but, at minimum, it should amend the UCCJEA to explicitly state as its purpose the goal of coordination among courts in intrastate, as well as interstate, issues.³⁰³ The legislature should also amend the Juvenile Court Act to explicitly bind parties by the UCCJEA and its requirements.³⁰⁴ Such amendments will make it more likely that petitioners will notify judges of any proceedings affecting the custody or visitation of a child.³⁰⁵

In addition to the notice requirement, a rule similar to Cook County's Coordination Rule, requiring judges to confer about related cases

297. Gordon, *supra* note 80, at 1.

298. See 750 ILL. COMP. STAT. 36/209 (2004) (requiring notice of other proceedings at the pleading stage).

299. 750 ILL. COMP. STAT. 36/209(d).

300. Provisions imposing consequences on petitioners that fail to give proper notice should accompany notice requirements.

301. 750 ILL. COMP. STAT. 36/209(a)(2).

302. See *supra* Part IV.B (mentioning the UCCJEA's effects on those seeking dissolution of marriage).

303. See Gamrath, *supra* note 155, at 204, 206 (discussing the purpose of UCCJA and UCCJEA).

304. Cf. 750 ILL. COMP. STAT. 5/601(a) (referencing section 201 of the UCCJEA).

305. See Gamrath, *supra* note 155, at 206 (describing the UCCJEA's goals of mitigating interstate child custody issues).

involving the same family, should be adopted statewide.³⁰⁶ Inconsistent decisions may still result without rules to guide a judge's behavior after receiving notice of other proceedings.³⁰⁷ Requiring judges to confer with one another about such proceedings will ensure that communication occurs and it will allow the judges to coordinate the matters as they see fit.³⁰⁸

C. Juvenile Court Judges Should Preside Over Custody and Visitation Matters

After the legislature adopts the notice and conferral requirements, it should adopt a further procedure to promote consistency among custody and visitation rulings.³⁰⁹ In instances where a family has a custody proceeding in domestic relations court and a child protection proceeding in juvenile court, court administrators should place the custody determination in domestic relations court on hold until the child protection proceeding has concluded.³¹⁰ If the allegations of abuse, neglect, or dependency are unfounded, the divorce case should then proceed.³¹¹ However, where there is a finding of abuse, neglect, or dependency, the juvenile court judge should preside over the remaining custody and visitation issues.³¹²

Proceeding in juvenile court on such matters follows the "one family, one judge" structure because it reaches similar goals even though the judge is not assigned to hear all of the family's legal matters.³¹³ First, conflicting decisions are avoided because one judge determines custody and visitation.³¹⁴ Second, the courts will administer services more

306. See *supra* notes 170–73 and accompanying text, for details on the Cook County Coordination Rule.

307. Gordon, *supra* note 80, at 1.

308. See ILL. CIR. CT. COOK COUNTY, GENERAL ORDER 1.6 (setting a conferral requirement for Cook County courts).

309. Babb *supra* note 3, at 47–48 (discussing inconsistency as a problem in a fragmented court system).

310. Cf. Schepard & Bozzomo, *supra* note 73, at 344 (discussing support for one court having jurisdiction over related matters affecting children and families).

311. With all abuse and neglect issues resolved, custody matters should carry on as specified in the Illinois Marriage and Dissolution of Marriage Act. See 750 ILL. COMP. STAT. 5/602 (2004 & West Supp. 2005) (calling on the court to make custody determinations when necessary).

312. See Hardin, *supra* note 1, at 150–68 (discussing the intricacies of child protection cases, the duties of judges presiding over such matters, and the expertise that they acquire in such matters as a result).

313. See Schepard & Bozzomo, *supra* note 73, at 344 (recounting support for such an approach); May, *supra* note 13, at 577–78 (discussing goals of the "one family, one judge" structure).

314. May, *supra* note 13, at 577–78.

efficiently under this procedure because they will know that different divisions will not duplicate services provided to the same family.³¹⁵ Further, neither the family nor the court will have to participate in multiple hearings involving custody and visitation determinations.³¹⁶

The juvenile court judge is also in a better position than the domestic relations judge to make custody and visitation determinations.³¹⁷ First, juvenile court judges are specifically charged with hearing child protection cases, giving them a greater awareness of the personal issues that affect families and the services available to help them.³¹⁸ Second, the juvenile court judge generally has more resources to provide to children and families.³¹⁹ In child protection cases, a judge is required to implement a permanency plan for the family that consists of the agency's case plans, periodic review hearings, and permanency hearings.³²⁰ The court often makes temporary custody and visitation decisions and reviews them periodically before making a final determination.³²¹ Unlike the domestic relations judge, who focuses on disputes, the juvenile court judge monitors the progress of the family to determine the best living arrangements for the child.³²² Thus, if a parent involved in a divorce proceeding is found to have abused or neglected a child, it follows that the juvenile court judge should preside over the child custody and visitation matters because the best interests of the child are better served when the judge monitors that child's progress and provides the child and her family with services that meet

315. See Hardin, *supra* note 1, at 158 (stating that the various duties of a judge presiding over child protection cases give him or her access to many services for the child and his family); see also May, *supra* note 13, at 577-78 (noting that when one judge hears all matters related to one family, resources are not duplicated).

316. See Schwarz, *supra* note 12, at 306 (discussing the benefits of a UFC system to victims who will not have to testify numerous times).

317. See Hardin, *supra* note 1, at 170-74 (discussing specialization of juvenile court judges).

318. See *id.* (explaining the expertise a juvenile court judge gains in dealing with child protection cases).

319. See, e.g., *id.* at 161-68 (discussing various remedies available to juvenile court judges); see 705 ILL. COMP. STAT. 405/2-10 (2004 & West Supp. 2005) (stating that the court may enter orders related to temporary custody, "including the provision of services to the minor or his family"); 705 ILL. COMP. STAT. 405/2-11 (2004) (allowing the court to authorize health care providers to provide various medical procedures if necessary to ensure the minor's life or health).

320. Hardin, *supra* note 1, at 152; 705 ILL. COMP. STAT. 405/1-3(11.1)-(11.2); 705 ILL. COMP. STAT. 405/2-28(2).

321. Hardin, *supra* note 1, at 158 ("At minimum . . . these hearings review progress under the current case plan, make corrections in the plan, and revise timetables to achieve case goals."); 705 ILL. COMP. STAT. 405/2-10.

322. See Hardin, *supra* note 1, at 158 (listing the typical responsibilities of juvenile court judges); 705 ILL. COMP. STAT. 405/2-28.1.

their needs.³²³

VI. CONCLUSION

Illinois demonstrated its desire to improve the fragmented juvenile and family court systems when it experimented with the UFC model and adopted local circuit court rules that require coordination. However, these actions were not enough. The Bridgeview Unified Family Court Pilot Project began with great enthusiasm, but it has yet to expand as planned. Cook County's Coordination Rule allows judges to confer with one another when faced with a case about the same child, but the rule only applies in Cook County. The UCCJEA demands that petitioners involved in interstate custody disputes notify the court of any other related court proceedings, but it is uncertain whether that same demand applies to custody disputes within Illinois. Despite the above measures, most Illinois court systems still remain fragmented, creating the potential for conflicting orders and ineffective resolutions. These measures must be a starting point for a larger initiative that Illinois must undertake. To truly ensure that a family's legal issues are being resolved effectively in Illinois, the legislature must adopt the UFC model or some other measures that will facilitate communication among the family and juvenile courts and comprehensively address the fragmented court systems statewide.

323. See Hardin, *supra* note 1, at 158 (discussing the various duties of the juvenile court judge that ensure various services are provided to the child and that extensive monitoring of the child's situation is achieved); see also Shepard & Bozzomo, *supra* note 73, at 339 (explaining how the emotional life of families and children are made better when a court addresses the behavioral and mental health problems of a family).

ADDENDUM

As this article was going to press, the Illinois Supreme Court announced its adoption of Article IX of the Illinois Supreme Court Rules, entitled “Child Custody Proceedings.”³²⁴ The purpose of the Article IX rules is to expedite child custody cases, ensure coordination of child custody cases filed under different statutes, and focus such proceedings on the best interests of the child.³²⁵ Among other mandates, Article IX requires petitioners and defendants in child custody proceedings to notify a court of any related court proceedings affecting the custody or visitation of the child, and it requires a single judge to preside over all child custody proceedings related to an individual child “whenever possible and appropriate.”³²⁶

Article IX addresses several of the problems discussed in this Comment, and it reflects similar changes to those proposed in this article. Most similar to a change proposed in this Comment is Rule 902, which requires petitioners and defendants in child custody proceedings to notify the court in its petition (or answer) of any other custody orders or pending custody proceedings in another court concerning an individual child.³²⁷ The rule places a continuing duty on all parties to disclose such information to the court throughout the proceedings.³²⁸ Such a duty is required for child custody proceedings initiated under the Juvenile Court Act, the Illinois Marriage and Dissolution of Marriage Act, the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), the Illinois Parentage Act, the Illinois Domestic Violence Act, and guardianship matters involving a minor under the Probate Act.³²⁹ Under Article IX, a “child custody proceeding” is defined as “an action affecting child custody or visitation.”³³⁰

In adopting this rule, the Special Supreme Court Committee on Child Custody Issues recognized the potential for inconsistent results from multiple custody and visitation proceedings involving the same child.³³¹

324. Adopted February 10, 2006, the Article IX rules will become effective July 1, 2006.

325. ILL. S. CT. R. 900(a).

326. ILL. S. CT. R. 902(a); Ill. S. Ct. Rules, Art. IX, R. 903.

327. ILL. S. CT. R. 902. Those defendants who are not required to file an answer must provide such information under oath at the party’s first appearance in court. *Id.* See *supra* Part V.B (proposing that the Illinois General Assembly or the Illinois Supreme Court adopt rules requiring petitioners in child custody cases to notify the court of any pending proceedings involving the same child).

328. ILL. S. CT. R. 902(d).

329. ILL. S. CT. R. 900(b)(2).

330. ILL. S. CT. R. 900 (b)(1).

331. ILL. S. CT. R. 902, Committee Comments, Special Supreme Court Committee on Child Custody Issues.

It also expressly recognized that such proceedings may occur intrastate, and thus may not fall under the UCCJEA notification requirements.³³² By requiring parties to notify the court of any related pending custody proceedings or orders, Rule 902 should remedy the problems that arise when courts do not know about related pending custody proceedings concerning the same child, so long as petitioners and defendants disclose such information.

Rule 902 does not explicitly require petitioners and defendants to disclose information on all court proceedings affecting a child, but its broad definition of “child custody proceedings” appears to encompass abuse, neglect, and dependency cases and cases related to domestic violence. It is imperative that all parties are aware of this broad definition and include such court proceedings in their disclosure to the court, and not just those that solely and directly deal with custody or visitation. Accordingly, the Illinois Supreme Court should amend Rule 902 to require parties to notify the court of any cases involving that child, not just those involving custody or visitation.

The new Illinois Supreme Court Rules also include a provision similar to this article’s proposal, requiring judges to confer about related family cases.³³³ Rule 903 requires each circuit to adopt a rule or order that provides for coordination and assignment of child custody proceedings.³³⁴ The rule requires circuits to assign all child custody proceedings relating to the same child to a single judge “whenever possible and appropriate.”³³⁵

Rule 903 will hopefully remedy the potential for conflicting results and wasted resources by assigning one judge to hear all related custody cases, or at the least by having judges confer over how to proceed in each case. However, beyond the mandate for a single judge to preside over related cases, Rule 903 gives no further guidance to circuits regarding their rules for coordination. Thus, while such rules will hopefully mirror Cook County’s Coordination Rule in requiring judges to confer over related cases, this may not be the case given that each circuit has discretion over the type of coordination and assignment process it implements.³³⁶

332. *Id.*

333. *Compare supra* Part V.B (recommending that a rule requiring judges to confer about related child custody cases be adopted statewide) *with* Ill. S. Ct. R. 903 (requiring each circuit to adopt rules providing for coordination and assignment of related child custody cases).

334. Ill. S. Ct. R. 903.

335. *Id.*

336. *See supra* Part III.C (explaining Cook County’s Coordination Rule) and Part V.B (recommending that a rule similar to Cook County’s Coordination Rule be adopted statewide).

Rule 903 also does not define what “appropriate” situations require that related cases be assigned to a single judge, leaving open the strong possibility for judges to interpret “appropriate situations” quite differently. To achieve consistency within each circuit, the circuits should further define such “appropriate situations.” Moreover, Rule 903 does not specify which judge should preside over related custody cases. For the reasons articulated in Part V.C of this article, each circuit’s rules or orders should call for the juvenile court judge to preside over all related matters when issues arising under the Juvenile Court Act are involved.³³⁷

Other provisions of Article IX attempt to remedy many of the problems that UFCs seek to solve. The UFC’s “one family, one court” structure is emulated in Rule 903.³³⁸ Rule 908 addresses some of the concerns raised by “one family, one court” critics. It requires the Chief Judge of each circuit to consider a judge’s experience and prior training before assigning that judge to hear child custody cases.³³⁹ Rule 908 recommends that the Chief Judge assess whether a particular judge has had training or experience in child development, child psychology, family dynamics, domestic violence issues, child sexual abuse issues, addiction and treatment issues, and cultural and diversity issues.³⁴⁰

With the additional mandate that judges attend a custody-related seminar once every two years, Rule 908 should increase judges’ understanding of custody-related issues and equip them to provide appropriate resolutions for families.³⁴¹ However, because the provision does not require that judges hearing custody cases have such backgrounds, Chief Judges may differ in how they consider each judge’s experience, applying different weight to various factors. To determine if qualified judges are actually getting assigned to custody cases, the Supreme Court should track judicial appointments in each circuit to assess how each Chief Judge considers a judge’s background

337. See *supra* Part V.C (proposing that the juvenile court judge preside over related child custody proceedings).

338. Compare Part III.A.2 (explaining the UFC model’s recommendation to have a single judge hear all of a family’s related cases) with Ill. S. Ct. R. 903 (requiring all child custody proceedings concerning the same child to be heard by a single judge when “appropriate and possible.”)

339. Compare Part IV.A.1 (discussing UFC critics’ concerns that a single judge presiding over all of a family’s cases may lack the experience and expertise necessary for the complex issues that often arise in such cases) with Ill. S. Ct. R. 908 (requiring the Chief Judge of each circuit to consider a judge’s background in child and family-related issues before assigning that judge to hear child custody proceedings).

340. Ill. S. Ct. R. 908(a), (b).

341. Ill. S. Ct. R. 908(c).

when making judicial assignments.

Article IX implicitly addresses the other components of the UFC model. Like the UFC's requirement of broad training for court personnel, the new Illinois Supreme Court rules require each circuit court to create educational and training qualification requirements for court-appointed attorneys representing children in custody cases.³⁴² Article IX also calls for expedited hearings and case management conferences, similar to the efficient case management component under the UFC model.³⁴³ Reflecting the UFC model's goal of providing "comprehensive services, the new rules require circuits to create parenting education and mediation programs and allow courts to hold court family conferences."³⁴⁴ Although the new Illinois Supreme Court Rules touch on every component of the UFC model, much more can and should be done to achieve better outcomes for family related court cases. The UFC model seeks to bring all of a family's related cases into one jurisdiction, yet the new rules only apply to child custody proceedings. The judicial and attorney training provisions may improve the quality of court personnel, but other individuals, such as social workers and case workers, should be available to a family and further provisions should be adopted to assure that such personnel are also trained and qualified. Similarly, more services, besides parenting education classes and court family conferences, should also be available to families to address their complex needs and such provisions should apply to all cases related to a child, not just those specified in Article IX.³⁴⁵

The Illinois Supreme Court took a great step toward achieving better coordination for child custody proceedings when it adopted these new rules and should be applauded for its actions. Moving forward, the Court should carefully evaluate Article IX's implementation statewide to determine its true impact on children, families, and the courts. It should consider possible areas for clarification and revision of these new rules to ensure that all children benefit from their efforts to achieve case coordination and efficiency. Finally, the Court and the legislature

342. Ill. S. Ct. R. 906, 908. *See supra* Part III.A.2 (describing the importance of having carefully selected and trained court personnel).

343. Ill. S. Ct. R. 901(a), 904.

344. Ill. S. Ct. R. 924, 942. *See supra* Part III.A.2 (explaining the UFC model's goal of providing comprehensive services for families in a single forum).

345. *See* Ill. S. Ct. R. 921 (limiting the application of provisions in Article IX, Part B to child custody proceedings filed under the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act); *see also* Ill. S. Ct. R. 924 (limiting the application of provisions in Article IX, Part C to child custody proceedings filed under the Juvenile Court Act).

should still consider implementing the UFC model statewide to fully address all of a family's legal needs.

TABLE OF CASE CROSS-REFERENCES

Case Name	Regional Reporter	Illinois Reporter
Atkinson v. Atkinson	402 N.E.2d 831 (Ill. App. Ct. 1980)	82 Ill. App. 3d 617 (1st Dist. 1980)
<i>In re Anast</i>	318 N.E.2d 18 (Ill. App. Ct. 1974)	22 Ill. App. 3d 750 (1st Dist. 1974)
<i>In re Daniel R.</i>	684 N.E.2d 891 (Ill. App. Ct. 1997)	291 Ill. App. 3d 1003 (1st Dist. 1997)
<i>In re J.J.</i>	566 N.E.2d 1345 (Ill. 1991)	142 Ill. 2d 1 (1991)
<i>In re Marriage of Rodriguez</i>	545 N.E.2d 731 (Ill. 1989)	131 Ill. 2d 273 (1989)
<i>In re Marriage of Troy S.</i>	745 N.E.2d 109 (Ill. App. Ct. 2001)	319 Ill. App. 3d 61 (3d Dist. 2001)