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Utilizing an Effective Economic Approach to Family Court: A Proposal for a Statutory Unified Family Court in Pennsylvania

Hon. Stephanie Domitrovich*

One day we will learn that the heart can never be totally right if the head is totally wrong. Only through the bringing together of head and heart—intelligence and goodness—shall man rise to a fulfillment of his true nature.¹

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This article was derived in part from a thesis submitted in May, 1998, in partial fulfillment of the requirement for the degree of Master of Judicial Studies at the University of Nevada at Reno.

¹. Martin Luther King, Jr., Strength to Love 32 (Harper & Row 1963).
I. INTRODUCTION

Does it make good sense to unify the law (the courts, intelligence) with the family (the heart) to understand the true nature of a family unit therapeutically, consistently, and efficiently? Several experts agree that a unifying approach to managing family court issues would better satisfy a family's needs and concerns when addressed by one judge assigned to each family.

This article explores whether Pennsylvania should implement a statewide unified family court ("UFC") policy by statute. Pennsylvania currently implements a fragmented family court composed of specialty courts in the areas of orphans', divorce, domestic relations, domestic abuse, and juvenile law. Juvenile court aims to balance the best interests of the juveniles, their victims and the community. By adopting a UFC policy, Pennsylvania may provide more benefits to juveniles, families, victims, and society. This article aims to discuss the advantages and disadvantages of a UFC concept and whether this concept is consistent with Pennsylvania's aim to fund an entire unified judicial system. If so, should a UFC be the first step in the implementation of this system?

A. The Business of the Courts

Unifying principles, although new to the courts, are not new to business. Streamlining monetary and time resources are goals of effective business management. It is plain old "good economics" to bring together many convenient opportunities for the consumers to shop, for instance. Big business means that supermarkets now must include more than food specialty departments; they should also have pharmacies, florist stands, greeting cards, laundries, best-selling books, and video stands. "One-stop convenient shopping" are the buzzwords for success.

Courts may need to follow this lead of successful supermarkets and fulfill the need for more convenient and more consistent service in family court. This need has prompted several states with multi-judge jurisdictions to adopt the UFC as a "one judge–one family" concept to provide a more efficient and family-friendly court. A UFC aims to consolidate various family court issues re-

3. Michael A. Town, The Unified Family and Juvenile Court: Quality Justice for America's Families and Children (December 9, 1994) (unpublished); Andrew Schepard,
garding support, custody, divorce, termination of parental rights, delinquency, dependency, adoption, guardianships, and estates. one judge, with a complement of mediators, psychologists, and social scientists, for instance, is assigned to a given family for a length of time to hear all of the family-related issues mentioned above. As a family court concept, “one judge–one family” focuses on conserving time and money for all stakeholders in the family court process, especially the children, and provides an avenue of convenience and efficiency for all parties who appear before the court.

Management of time, money, and other resources is crucial to the success of court programs. Currently, in most jurisdictions, a child’s family could appear in front of as many as eight judges for different issues. No one benefits from such an approach. The judge does not obtain a full picture of the child and family, and the family is not provided a consistent decision-making process because of the change in judges.

All of these various family court actions have interrelated womb-to-tomb issues (from adoptions to decedents’ estates). Consolidating these issues before one judge provides a holistic approach to legal problems faced by families. This can also be very therapeutic. Offering the advantage of a single, convenient location, a UFC is similar to the management approach found in retail businesses, in which large and inclusive modern supermarket structures offer flowers for a funeral and Pampers for twins available in one convenient forum.

B. The Development of the UFC Concept

The UFC concept is praised by The National Center of State Courts in Williamsburg, Virginia. Endorsed by the American Bar Association, The National Council of Juvenile and Family Court Judges, and, most recently, the United States House of Delegates,


7. Id. at 8.

8. Town, supra note 3, at 3; see also Page, supra note 5, at 15.

9. Town, supra note 3.

10. Barnes, supra note 2, at 22.
the concept of a UFC is not a new phenomenon. This concept dates to the 1940s, and, in 1961, Rhode Island was the first state to adopt a UFC on a statewide basis. Five other states have followed this lead, with small local jurisdictions having regional programs of their own in various counties. Recently, the Robert Wood Johnson Foundation of Princeton, New Jersey, approved a substantial grant for the American Bar Association Standing Committee on Substance Abuse to establish UFC projects in various areas as Atlanta, Georgia; Baltimore, Maryland; King County (Seattle), Washington; and Washington, D.C.

Supporters believe this unifying concept developed in part from the increased awareness that family court—traditionally considered the poor stepchild of the judicial system—is fundamentally important to the future success of our communities by providing protection as well as modern-day progress. As we proceed into the 21st century, with the increase in the number of family court cases, it becomes clear "the old ways of doing business don't work."

According to The National Center for State Courts, family court cases are the largest and fastest growing segment of state court civil caseloads. In ten years, from 1984 to 1994, the number of domestic relations cases rose by sixty-five percent. Family court cases, including juvenile court cases, constitute more than thirty percent of the civil docket in state courts. With more federal legislation being enacted to enforce child support awards, the volume of family court cases has increased, adding to the already-growing number of juvenile crime cases and the enlarged caseload of neglected and physically abused children.

11. Barnes, supra note 2, at 22.
12. Id.
13. Id.
14. Id.
16. Barnes, supra note 2, at 22.
17. Id.
18. Id.
19. Id.
C. Benefits

1. Consistency

Interestingly, the consumers of these court services are repeat users, whether satisfied consumers or not, who return for more court services either as a result of being mandated by the court or by voluntarily initiating their own petitions. A study conducted in 1992 by The National Center of the State Courts indicates that forty percent of the families in family court are repeat consumers of court services.

The central tenet of the UFC concept is that one highly-trained judge handles all matters relating to a particular family with the assistance of support personnel and social service workers. Beyond this common starting point, the model varies from state to state and jurisdiction to jurisdiction. A judge's workload with a particular family can include divorce proceedings, juvenile proceedings, civil commitments, protection orders, and even adult criminal cases stemming from domestic violence. Obviously, this UFC saves time and money because a judge who knows the history surrounding a family can more effectively and efficiently dispose of an issue than can a judge who is unfamiliar with the family.

Under the traditional non-integrated model, families often can be shuttled from one judge to another within the same multi-judge jurisdiction. Family members, shuffled from court to court, often have substance abuse problems, which can be latent and not easily identified by a judge who has had limited contact with a family. Failure to quickly identify such a core issue may yield more negative results for the family. An example occurs when victims become offenders, finding themselves before other judges unfamiliar with a family's needs in a disjointed, non-integrated model.

When the system does not assign the same judge consistently to a particular family, judges render rulings that fail to address core

20. Id.
22. Schepard, supra note 3, at 3.
23. Id.
24. Id.
25. Id.
26. Id.
27. Schepard, supra note 3, at 3.
problems faced by the family. After having been in court on numerous prior occasions, the family ends up more familiar with the court system and learns to manipulate the system by judge shopping.

Pro se litigants—and even attorneys—are not expected to carry the responsibility of giving a full and complete picture of the family within the limited time assigned to a scheduled case before every new judge. Court scheduling and the large volume of cases does not permit such a luxury, even for a new judge. Judges have, as a result, issued rulings conflicting with decisions made by other judges within the same jurisdiction regarding the same family. Taxpayers have had to bear the lost opportunity costs of scheduling multiple related actions separately, prolonging and adding to already heavy caseloads. At the same time, the consumers—the affected families—must spend limited and scarce resources such as time and money for assembly line justice from judges faced with multi-faceted, complex family issues.

2. Early Intervention and Prevention

Besides providing consistency, the UFC system emphasizes the role of early intervention and prevention. For instance, in various districts, because almost one-half of all cases in family court involve substance abuse, a UFC aims to provide treatment at its earliest stage as therapeutic justice to heal the families in need. One jurisdiction that has operated a statewide UFC since 1984 is New Jersey. According to a New Jersey court administrator, although the new system does save money, the motivation to implement a UFC is not one of finances, but one of serving families and children.

3. Quality Decision Making

UFCs make a difference in terms of quality decision making. For judges, family court can be the most stressful and most difficult
assignment. For many judges, case law in this area provides little direction in their decision-making process. In custody court, for instance, the Pennsylvania standard for determining primary custody is “the best interests of the child.” This formula, however, permits broad judicial discretion based on the judge’s own personal experiences and belief and assumes the judge will not abuse her or his discretion. Unlike other areas of the law, where stare decisis provides direction, custody cases require judges to rely on their own experiences, either as former practitioners in this field or as parents in their own family situations, when weighing the many intangibles associated with these “delicate” issues. A judge’s limited, personal experience may not offer enough guidance needed to address the needs of families experiencing many difficulties. With a UFC, more community stakeholders are added to help the families, such as mediators and court-appointed special advocates (“CASAs”), who volunteer from within the community to help the community.

Herein lies the dilemma: What about consumers and their preferences as to the quality of decision making viewed necessary to have effective and convenient services in family court? We know that most administrators and judges in a growing number of states favor “one judge—one family.” But what about consumers who may be “stuck” with a single judge they perceive as unfair? Studies indicate that—just as beauty rests in the eyes of the beholder—the people’s perception of justice is justice. If the court is not perceived as fair and just, then the consumer or litigant who experiences it firsthand will neither value the court nor benefit positively from interaction with the courts. Although we could have the finest justice system in the world, unless the people perceive the system as just, justice does not exist.

Justice must be perceived by the community for justice to be recognized and achieved. The Rodney King trial is an illustration. Rioting occurred in Los Angeles because the citizenry believed that a biased jury selected from an almost homogeneous locale acquitted a white Los Angeles police officer charged with beating King, an African-American. The community perceived this jury verdict

38. Id. at 321.
39. Id.
as an injustice and "shook up [other] jurors' perceptions of the system."\footnote{Racial Divide Affects Black, White Panelists, NAT'L. L. J. S8, February 22, 1993 [hereinafter Racial Divide].} After the King verdict, jury consultant Robert B. Hirschhorn stated, "If [the acquittal] did anything in America, it woke jurors out of a coma . . . in believing that law enforcement is always right."\footnote{Racial Divide, supra note 41, at S9.}

4. Monetary Savings

Saving money is important to taxpayers.\footnote{Id.} Studies indicate the UFC saves money because it requires fewer judges.\footnote{Id.} Judges' schedules are well coordinated to enable them to address legal issues and social service experts work closely with the court to evaluate and handle the families' concerns.\footnote{Id.} These social service programs include courses on crisis intervention and parent education.\footnote{Id.} New Jersey's court administrators credit the UFC concept's far less adversarial nature with making their system work with less delay.\footnote{Id.} Greater emphasis is placed on mediation and alternate dispute resolution for every matter except domestic violence cases.\footnote{Id.} Prior to implementing the UFC concept, New Jersey litigants could see as many as fourteen judges, who were addressing various family issues in the context of a single case.\footnote{Id.} In New Jersey, it is estimated that a single judge currently handles multiple proceedings involving and affecting a single family in eighty percent of the time the same proceedings would have taken under the old system.\footnote{Id.}

Financial roadblocks should not interfere with the perception and implementation of justice. A major obstacle to the UFC concept involves start-up expenses, which are encountered in implementing a UFC just as in implementing any other new business enterprise.\footnote{Barnes, supra note 2, at 23.} Although, in the long run, this concept is financially more feasible than are the traditional models of non-integrated family court, UFCs need technology and trained staff members to
identify and track cases involving various family members. Such an initial monetary investment produces effective results beyond family court. One supporter analogizes, “It’s like spending money up front on Head Start. You’ll spend less on the criminal justice system and social services down the road.”

5. Internal Efficiency

Applying business principles and absorbing increased up-front costs to produce efficiency in the handling of marital difficulties involve a shift in paradigms for most judges. In the past, judges advocated a slow method of family court scheduling, which did not resolve the very personal and languishing dilemmas faced within each marital relationship. This method was based on the theory that families were best equipped to handle their own situations and, given enough time, would find their own solutions without the court’s interference. Judges took a “hands-off” attitude toward the intra-workings of the family, presupposing that the family “knows best.” We now know the fallacy of that thinking. Cases do not fade away; rather, situations get worse if left to linger.

Moreover, the courts have generated their own barriers by creating specialty courts to tackle frustrating, complicated cases that had been languishing within the system without any results. The courts theorized a need for separate divisions to specialize in juvenile and family court issues because these areas were once thought to be unrelated.

In Erie County, Pennsylvania, for decades, the court separated dependency issues from termination of parental rights cases, which, in turn, were separated from adoption matters. Different judges heard each of these issues separately and often lacked the familiarity with previous rulings and the contact with the parties that were deemed necessary to decide such issues confidently.

Because of this lack of familiarity with the parties’ situations and a lack of awareness of the number of warnings issued to attempt to reunify the family, judges permitted children to languish in foster care without the benefit of permanency planning. The process

52. Barnes, supra note 2, at 23.
53. Id.
54. JOSEPH GOLDSTEIN, ET AL., BEYOND THE BEST INTERESTS OF THE CHILD, 43 (1973)
55. Id. at 7-8.
56. Id. at 40-45.
57. SZYMANSKI, supra note 4, at 24-25.
58. Id.
would slow down even more because of the need for a thorough review of previous decisions concerning a particular family.

To terminate parental rights, the court must determine whether, despite reasonable efforts to reunify the family, the parents either refused or lacked the proper parental skills to satisfy the needs of their children. Only after the court finds that the state has satisfied this burden can the next step in permanency planning, such as potential adoption, be convincingly addressed.

To achieve long-term stable planning in a UFC, the same judge conducts all aspects of the proceedings to utilize court resources effectively to shift parental responsibilities and costs from the state to a smaller unit—the family.

The traditional delayed and fragmented family court is not the best way to run the “business” of the court system concerning families. Consumers perceive justice when they receive consistent treatment from the judiciary. By applying the UFC concept to the “business” of the family, the court can provide consumer satisfaction, for sound business principles are not alien to the family. In fact, the term “economics” has its origins in the family household. *Economy* is derived from the Greek words *oikos* (house) and *ne-mean* (to manage), meaning “one who manages a household.” Just as a family household faces many choices regarding scarce resources, so does society.

C. Potential Disadvantages

1. Judicial “Burn-out”

Judicial stress is one possible disadvantage to a UFC. Judges whose caseloads are limited to family court cases on a daily basis can suffer from judicial “burn-out.” Family court judges must dispose of heavy caseloads and are considered to have “the heaviest judicial workload.”

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60. Id. at 97, 102.
64. Page, supra note 5, at 22.
65. Id.
Implementing a UFC can avoid judicial burn-out because judges traditionally become overexposed to a daily diet of the same particular cases. A UFC can include judicial rotation, which several experts recommend as a method to avoid judicial overexposure and the resultant interference with effective judicial performance. To lessen judicial stress, judges are rotated "out" of family court to maintain control of "the overly zealous judgmental judge whose continued hearing of sensitive family matters is not beneficial to the public." Although rotation breaks the continuity provided by "one judge—one family," family court benefits by rotating "kingdom builders" to other divisions "wherein they can do less damage."

Other experts recommend each judge serve a minimum period of a continuous term in family court. This term permits training to occur. Because litigants may become dissatisfied with a particular judge assigned to their cases when outcomes are not favorable, judicial rotation provides an additional opportunity for consumers to become more satisfied when new judges are assigned to their cases.

2. Needed Judicial Resources

Another potential disadvantage "involves the nature of the court system and its lack of expertise, training or reliable information to resolve intrafamilial disputes." Some experts maintain that the courts are not in the business of deciding more than the immediate issue to be addressed before them. Most judges are not equipped with the specialized training needed to work in the areas of psychology or sociology and do not have the necessary staff to address these issues.

Instead, the court "should limit its dispositions to behaviorally specific outcomes for its clients." One recommended remedy is for a judge to employ a staff of experts for advice when specialized knowledge is necessary. A judge can choose to rely upon these experts or not, depending on the quantity and quality of knowledge necessary for her or his decision-making process.

66. Id. at 23.
67. Id.
68. Id. at 21.
69. Page, supra note 5, at 21.
70. Id.
71. Id.
72. Id.
73. Id.
3. General Jurisdiction Judges

General jurisdiction judges have the authority to hear a multitude of cases in both civil and criminal trial work, as well as family court matters. These judges may be reluctant to narrow their broad jurisdiction to the limited area of family court. The status and prestige of office for these judges may also be affected when their jurisdiction is limited to the duties of family court. Family court assignments have not been viewed as desirable court assignments. Experts have commented, "[t]oo often family law issues are not considered worthy of the best judges, attorneys, or facilities and [are] placed at a level below adult criminal or civil actions." Implementing a UFC can upgrade respect for family court and its judges. Family court judges should have salaries, facilities, and staff equal to those of the trial level judges. Some experts indicate certain "perks" should be given in family court as incentives for the large quantity of family court cases resolved. Once proper respect is received, proper funding will flow to recognize this respect.

II. LITERATURE REVIEW

This article begins with a discussion of business principles relating to effective management of court cases, accomplished by reviewing the law review articles and books by leading and prolific writers such as Judge Robert W. Page, Hunter Hurst, Judge Leonard Edwards, and Linda Szymanski. The article also reports recommendations by committees and commissions that address the future of family court, such as The Future and The Courts Conference and the Pennsylvania Futures Commission.

Various states have been and are experimenting with the UFC concept. This article examines the statutes of jurisdictions such as Vermont and New Jersey, which are already implementing this

74. Page, supra note 5, at 41.
75. Id. at 19.
76. Id. at 18.
77. Id. at 19.
78. Id. at 18.
79. Page, supra note 5, at 17.
80. Id. at 19.
81. Id.
82. Id.
Pennsylvania's case law and statutory law are examined in light of the cases of *Pennsylvania State Association of County Commissions, et al. v. Commonwealth of Pennsylvania* ("Allegheny I")\(^\text{83}\) and *Pennsylvania State Association of County Commissioners v. Commonwealth of Pennsylvania*, ("Allegheny II").\(^\text{84}\) The article describes the developing case law related to the jurisdiction of the Pennsylvania Court of Common Pleas and its various divisions, such as juvenile court. The Pennsylvania Supreme Court has appointed a senior judge as a Master to make recommendations for a unified judicial system. The Master's recommendations do not address the potential role of a UFC. This article discusses the details of relevant phases to implement the entire unified judicial system with UFC as the focal point. The judicial and the legislative branches can use a collaborative approach to fund and manage important, yet volatile, family court issues for their constituents.

Recommendations from reports of the state of Kansas and King County, Washington, are provided to highlight the advantages and disadvantages involved in managing a UFC. The major points of a report from the Monmouth County, New Jersey, pilot project are examined because they explain the team approach method of resolving issues and the important role of advanced technology. The Monmouth report noted a "one judge–one family" concept may not be viable in practice; in contrast, a report from Deschutes County, Oregon, indicated favorable findings to support its implementation of this concept. Duplicate services were divided and effective treatment plans were achieved.

In addition, this article provides vital information gleaned from recent New York news articles about the enthusiasm of the three branches of government, not only for a UFC, but also for a unified judicial system. New York's chief justice, governor, and legislators agree on the value of a UFC and a unified judicial system.

Finally, Vermont's statute, which clearly and concisely embodies the unified family concept and which can easily be adopted to meet the needs of Pennsylvania families, is discussed.

### III. METHODOLOGY

This article reviews literature that develops the "one judge–one

\(^{83}\) 534 A.2d 760 (Pa. 1987).

\(^{84}\) 81 A.2d 699 (Pa. 1996).
family” concept. Law review articles provide the mechanism to compare and weigh advantages and disadvantages of the traditional court approach as opposed to the “one judge—one family” concept. Reports of the Pennsylvania Futures Commission recommend twenty-first century visions designed to meet the needs of families.

This article explores whether the “one judge—one family” concept provides economic benefits, such as saving taxpayer dollars and minimizing lost opportunities for consumers. In addition, this article presents other economic principles—such as marginal analysis, utility, maximizing self-interests, and beneficial consequences—and both applies these principles to family court management issues and relates these principles to the UFC.

Through an examination of stare decisis, this article develops the current legal framework in Pennsylvania. The legislature’s vesting of jurisdiction with the courts is explained through statutory development. Recommendations from the Master’s report to implement a unified judicial system are detailed, explored, and evaluated as to whether a UFC would be consistent with that system.

This article also provides pertinent sections of statutes from other state jurisdictions where UFCs are already in effect and identifies necessary changes the Pennsylvania Legislature may consider adopting to achieve beneficial economic consequences for the numerous Pennsylvania families that need resolution of difficult issues.

IV. THE FAMILY AND ECONOMIC THEORY

A. Introduction

At first glance, applying principles of economics to the family seems counterproductive. However, judges and lawyers need to recognize the relationship between economics and family court, which extends beyond monetary resources. “Just as a physicist must take into account the effects of gravity, so too must a lawyer understand the effects of economic forces.”85 By going beyond monetary concerns, economics teaches lawyers and judges the importance of incentives as they affect human behavior and the manner in which scarcity of resources requires “choices or trade-

85. HENRY N. BUTLER, ECONOMIC ANALYSIS FOR LAWYERS 3 (1998).
offs among competing uses of limited resources." When consumers in the economy make these choices, economists believe these stakeholders end up maximizing their well-being. Invisible economic forces create this balance as "gravity of the social world."

Economic forces affect management of scarce resources in the court system. By thinking in economic terms, lawyers and judges utilize "a tool kit for solving problems and making decisions." Litigants, too, need to make effective choices to benefit themselves, which, in turn, will benefit the operation of the courts.

B. Stakeholders in the Family Court System

1. Consumers

If consistent decision making and efficient case management are achieved through the UFC, Pennsylvania can reach an optimal level of maximizing its efforts to meet the needs of its citizenry. Because UFC provides consumers motivational incentives, the system also meets the efficiency expectation.

In a UFC, consumers are offered the opportunity to solve problems within their own family units effectively and efficiently. This result is accomplished by establishing rules of law to provide "incentives for being part of the solution to the problem under litigation" and by promoting rewards for fairly bargained dispute resolution. Such rules provide the court with opportunities to resolve cases in an ever-increasing caseload.

The "one judge—one family" concept promotes consistent, effec-

86. Id.
87. Id.
88. Id.
89. ROBERT B. HARRIS, STUDY GUIDE FOR PRINCIPLES OF MICROECONOMICS iii (1998).
90. Id.
92. Id; see also, Lois Gold, Interdisciplinary Team Mediation, MEDIAT. Q., December 1984, at 32. Clients are informed that mediation is preferred over the broad discretion that a judge can utilize in the courtroom to divide marital property, establish support awards, and impose custody/visitation schedules. Cases with identical facts could likely result in different resolutions when heard by different judges, and appellate courts are not likely to reserve the trial court findings unless the trial court has abused its discretion. The parties are motivated by these incentives to create their own settlements tailored to the needs of their family to avoid the "element of arbitrariness [which] is necessarily part of a third party's imposed disposition." Id.
tive, and efficient family problem solving. A UFC system focuses on family support and family preservation, thereby fulfilling the needs of each family in a preventive fashion. To do so, however, the system must offer consumers incentives to change their behavior with the court's guidance.

Court consumers must have the opportunity to compare costs and benefits if they are to change their behavior in the marketplace. Consumers acting as business owners in the justice system will then maximize profits. State taxpayers ultimately benefit because the state and the court maximize costs and resources.

Providing incentives to consumers is one factor critical to designing court policy. Because court policies affect the public, the repeat consumer, in turn, affects the costs of increasing caseloads to the taxpayer. Judges as policy makers have a responsibility to apply consistent management of each family unit proceeding through the courts and affecting consumers' behavior.

Through their knowledge of the families in a UFC, judges make decisions to prevent unexpected results. They could not do so if they were unfamiliar with the family members and their needs. Judges in a UFC are in a position to understand the true nature of each unique family unit; however, these judges also recognize that consumers themselves may be best qualified to decide if the judicial system can effectively meet their needs for dispute resolution.

Through dispute resolution methods, the court empowers consumers to solve their own problems. If the public perceives services provided in the family court as important and reliable, then the public will view these services as deserving respect, support, and popularity.

As court cases become more efficiently and effectively managed, more litigants will be attracted to a UFC as a therapeutic alternative to resolve their issues. Some experts argue the better the family court system functions, the higher the costs to the system in terms of time and money. They argue the increased volume in families served will require an increase in personnel and related resources to manage the growing caseload. Such an argument is weak, because costs are saved through early settlement vis-à-vis

95. Schepard, supra note 3, at 11.
mediation despite an increase in volume of cases. In mediation, individuals and taxpayers realize reduced costs.\textsuperscript{97}

In juvenile delinquency and dependency matters, both monetary placement costs and emotional costs to the child and the family are reduced when permanency is achieved at an expedited rate in a UFC. A delinquent child can be held more accountable and receive the necessary treatment in a short span of time in a community-based program monitored by a “one judge–one family” court.\textsuperscript{98} The juvenile justice system’s organizational image is upgraded from a tax liability to a community asset.\textsuperscript{99} A judge will rehabilitate or treat a child in need and then return the child to her or his home before the family becomes accustomed to the child’s absence and the parent–child bond is weakened or destroyed.\textsuperscript{100}

A UFC aims to have fewer children in placement and more children living in their own homes, receiving “wrap-around” mental health services within the home.\textsuperscript{101} Taxpayers benefit when courts expeditiously enforce orders requiring non-custodial parents to reimburse the local government for services, including placement costs. Through the domestic relations court, the same judge who issued the juvenile court order establishes and enforces the support order.\textsuperscript{102}

With the ever-expanding use of mediation, evaluations, parenting education, and support services for families, a UFC can better serve the evolving needs of a family. Because “family life is neither static nor predictable,” dynamics within a family are best served by the “one judge–one family” concept.\textsuperscript{103} The traditional legal process “was designed to manage discrete, one-time disputes, usually arising from facts that were single events, not multi-decade rela-

\textsuperscript{97} Id., at 64-65. See also Graham, supra note 61, at 1123. However, assuming arguendo, that mediation is slightly more costly and even slower than litigation, it is believed that adversarial proceedings take a toll on the family—especially the children. Id. at 1123-24. Consumers will benefit tremendously from the positive impact mediation has in eliminating anxiety and anger, in particular, when disputes involve children. Considering the cycle of violence to which children are exposed, mediation is a way of life we need to promote and accomplish for our children through a UFC. Id.


\textsuperscript{99} Balanced & Restorative Justice, at 5.

\textsuperscript{100} George, supra note 98, at 113.

\textsuperscript{101} Id.

\textsuperscript{102} The author notes that this is the procedure followed in Erie, Pennsylvania.

\textsuperscript{103} Leslie Ellen Shear, Life Stories, Doctrines, and Decision Making, 34 FAM. & CONCIL.CTS. REV. 4, October 1996 at 456.
tionships."\textsuperscript{104} Except in context of commercial law, which buyers and sellers maintain ongoing business relationships out of necessity, "[l]itigants who are not parents seldom have to maintain ongoing relationships with one another."\textsuperscript{105}

2. The Community

In 1959, Roscoe Pound emphasized the need for the law to protect the community. He advocated that community protection is maintained through observance of the principles of respect and dignity for the offender as well as the victim:

\begin{quote}
[T]he legal order should safeguard the human existence of the person controlled. Thus the old-time sea law, with its absolute power of the master over the sailor, the old-time ignominious punishments, that treated the human offender like a brute, that did not save his human dignity—all such things are disappearing as the circle of recognized interests widens and we come to take account of the social interest in the individual life and to weigh that interest with the social interest in the general security, on which the last century insisted so exclusively.\textsuperscript{106}
\end{quote}

In a UFC, respect and dignity are maintained by the court’s encouraging consumers to solve their own family disputes, an approach focused on the best interests of all concerned. Community resources, such as a CASA program, help the family and the court by providing a fresh perspective to aid in developing permanency planning in all states.

Pound also valued the importance of maximizing individual interests so long as these interests can be achieved without affecting the community’s interests. A UFC balances the individual’s needs with the community’s needs when a treatment plan is needed, for instance. Supported by a team of experts, the judge involved can provide appropriately tailored treatment and incentives for the natural parents to succeed in reuniting with their child. When the natural parents fail to follow through with treatment, the judge in a UFC can expedite termination of parental rights in the best interests of the child, which, in turn, is in the best interest of the taxpayer:

\begin{quote}
[T]hese are the social interests which are recognized or are coming to be recognized in modern law. Looked at functionally, the law is an at-
\end{quote}

\textsuperscript{104} Id.  
\textsuperscript{105} Id.  
\textsuperscript{106} 3 Roscoe Pound, Jurisprudence 324 (1959).
tempt to satisfy, to reconcile, to harmonize, to adjust these overlapping and often conflicting claims and demands, either through securing them directly and immediately, or through securing certain individual interests, or through delimitations or compromises of individual interests, so as to give effect to the greatest total of interests or to the interests that weigh most in our civilization, with the least sacrifice of the scheme of interests as a whole. 107

Pound foresaw the need to expand social paradigms to meet the individual's needs through the law. He found frustrating the "piecemeal" way the courts were dealing with the same family on various issues in divorce, juvenile law, domestic relations, and criminal court. He called for

an end to the waste of time, energy, money and interests of the litigants in a system, or rather lack of system, in which as many as eight separate and unrelated proceedings may be trying unsystematically and frequently at cross-purposes to adjust the relations and order the conduct of a family which has ceased to function. 108

Pound forecasted the need to unify the court. He would have approved of the UFC's unified community approach.

Pound emphasized the important roles that economics, politics, and culture play in developing a civilized society while fulfilling the need to satisfy the individual wants of each citizen. He recognized the need to balance the following interests:

Three forms of this social interest have been recognized in common law or in legislation: individual self-assertion, individual opportunity, and individual conditions of life. The first, the interest in free self-assertion, includes physical, mental, and economic activity. In Spencer's scheme of natural rights, they appear as a "right of free motion and locomotion," a "right of free exchange and free contract," deduced as a sort of free economic motion and locomotion; a "right of free industry," deduced expressly as a modern outgrowth of free motion and locomotion; as a right of free economic activity; a "right of free religious belief and opinion" and a right of free political belief and opinion; the two last being deduced also as modern developments of the same natural right of free motion and locomotion. Policies favoring free trade and free industry are in part reference to a social interest in free economic self-assertion. 109

In his discussions on jurisprudence, Pound discussed society's

107. Id.
interest in generating opportunities for individuals:

It is the claim or want or demand involved in social life in civilized society that all individuals shall have fair or reasonable (perhaps, as we are coming to think, we must say equal)—political, physical, cultural, social, and economic. In American thinking we have insisted chiefly on equal political opportunities, . . . [b]ut a claim to fair physical opportunity is recognized in public provision of parks and playgrounds and in public provisions for recreation; the claim to fair cultural opportunities is recognized by laws as a to compulsory education of children (although the social interests in general progress and in dependents are also recognized here) as well as by state provisions for universities and for adult education; the claim to fair social opportunities is recognized by civil rights law; and the claim to fair economic opportunities is recognized, for example, in the legal right to "freedom of the market" and in the so-called "right to pursue and lawful calling [.]."

Family court litigants benefit from the internal efficiency of a UFC, much like litigants do when nondomestic civil and criminal matters are assigned to a single trial judge for the duration of a case. The traditional adversarial system fails to address the needs of families and their children, who languish anticipating the traditional system's scheduling of a court date assigned to an unfamiliar judge.

Balancing an individual's interests with those of society as a whole is indeed difficult. States such as Pennsylvania and Florida have adopted an important philosophy, the balanced and restorative justice approach, to meet the needs of juveniles and families. This approach aims to balance the needs of the community, the juvenile offender, and the victim to promote community protection, competency development, and accountability. The focus is on the community to create programs such as community service, mediation, and restitution as catalysts for a more responsive juvenile justice system to meet the community's needs in a proactive fashion. Such a community approach is in keeping with the community focus of a UFC and is compatible with the "one judge—one family" approach.

A balanced and restorative justice approach also abandons the traditional court approach of demanding retribution from juveniles

110. Id. at 319-20.
112. Id. at 3.
113. Id. at 5.
to exact public vengeance. As Pound indicates, such vengeance does not safeguard human dignity. Such government control in the name of vengeance would obviously be perceived as ineffective and undignified because it does not effectively deter juveniles from subsequent criminal activity. The balanced restorative justice model, although obviously not a new theory, is indeed new in application and lends itself to victim reparation, not juvenile punishment.\textsuperscript{114} Funded by the United States Department of Justice, such an approach aims to assist jurisdictions in implementing a restorative, well-balanced model to weigh equally the needs of society and the needs of individual juveniles in the system.\textsuperscript{115} Applied to a UFC, balanced restorative justice bolsters the community's perception of the court as a leader in dispensing therapeutic justice.

Although Pennsylvania has limited the application of this concept within its specialized, fragmented juvenile court, it could easily extend balanced restorative justice to a UFC. This proposed approach can be considered both procedural and substantive in nature: the implementation of a UFC would be procedural, whereas applying balanced restorative justice in sentencing juvenile offenders would have substantive impact.

Other jurisdictions already are implementing a UFC. New Jersey is at the forefront of utilizing new programs to balance the needs of the family and the problems associated with a finite budget. Each locale or vicinage in New Jersey has, for the last twenty years, had both a Child Placement Review ("CPR") Board and Child Placement Advisory Council.\textsuperscript{116} Composed of volunteer citizens, the CPR Board continually reviews the appropriateness of juvenile placements. The CPR Board’s review includes recommendations regarding juvenile placements. Each judge decides whether to institute changes in juvenile placements to conserve financial resources and obtain higher-quality and more economical treatment.\textsuperscript{117} These changes are undertaken when they are in the best interests of both the juvenile and the community.

In addition, the New Jersey Child Placement Advisory Council, composed of volunteer citizens, provides recommendations for statewide policy and procedures affecting children to New Jersey's

\textsuperscript{114} Id.
\textsuperscript{115} Id. at 2.
\textsuperscript{116} George, supra note 98, at 111.
\textsuperscript{117} Id.
highest court. This advisory council reports to all three branches of government (the supreme court, the governor, and the legislature) and is involved in monitoring and lobbying for necessary legislation impacting the welfare of juveniles in placement. The advisory council also provides the necessary training for volunteer appointees. CPR volunteers are credited with "making a difference" for children in placement in New Jersey; they assist in implementing the various federal and state mandates for children at a minimal cost. Other benefits provided by CPR volunteers include the following:

[They give] cases attention that might otherwise not be available, and help relieve the burdens on the supreme court by making recommendations based on review and face-to-face interviews with the people involved. Finally, they provide a watchdog function over all the interacting partners in placement to ensure no child is lost within the system.

As the above description indicates, New Jersey is coordinating innovative community-minded programs through its UFC to meet the needs of children in more efficient and effective ways.

Other states also involve community energy and efforts at all levels of governments, thereby attracting various professionals in the fields of juvenile and family law. Relying on the efforts of professionals such as judges, prosecutors, legislators, court managers, probation officials, victim advocates, and scholars, the National Council of Juvenile and Family Court Judges is coordinating an examination and evaluation of the juvenile court movement for possible changes and new focal points.

One of the conclusions from a recent symposium of The State Justice Institute emphasized the need for each governmental branch to prepare a plan or blueprint for action. The highest level of the trial court system should "provide individualized justice for each child and family." Certainly, a UFC in which the "one judge—one family" model is utilized creates the framework for such a blueprint for action.

The Honorable Shirley S. Abrahamson, Chief Justice of the Wisconsin Supreme Court, advocates that the court must address and view issues affecting "individual members" in an "interrelated"
fashion "as part of a family unit." Although Wisconsin has not adopted a statewide uniform family court approach, Wisconsin is experimenting with this approach in pilot projects at various sites within the state.

By adopting a UFC concept, Pennsylvania can provide its citizens with equal access to statewide community programs designed to achieve long-term benefits. To accomplish this goal, Pennsylvania needs to abandon or revise the traditional, fragmented, specialty court approach by expanding the juvenile court's jurisdiction to include family-related areas of the law. In so doing, Pennsylvania will enable its juvenile court to become more responsive to meeting the needs and expectations of consumers in the community.

3. Incentives and Expectations for Stakeholders

The traditional juvenile court system in Pennsylvania, as in other states, has intentionally isolated itself from the other areas of family law. For the sake of tradition, judges and lawyers continue to separate various areas of the law into specialties such as juvenile court.

Judges in juvenile court tend to specialize in either or both juvenile delinquency and dependency cases. The reasons often given for continuing to separate juvenile court from the rest of the court system are the large volume of cases and the specialized knowledge needed for allocation of resources (time, personnel, and money) to place juveniles when necessary to protect the community.

Juvenile delinquency generates expenses for all parties involved, including the perpetrator, the victim(s), and society at large.

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124. Id. at 1200.
128. Edwards, supra note 126, at 29.
These expenses of delinquency involve everyone’s “pain, unhappiness, unrealized ambition and money.”\textsuperscript{130} Awareness of the expenses should compel the courts to create more successful intervention steps to reduce and prevent juvenile crime, which harms the community. Preventing juvenile crime is a very high item on “America’s unfinished public agenda.”\textsuperscript{131}

Carl G. Jung sets the tone for continuing to reevaluate the juvenile justice system to serve youth in a better, more effective, and more efficient way: “The meaning and design of a problem seem not to lie in the solution, but in our working at it incessantly.”\textsuperscript{132} When the juvenile court system developed in the early 1900s, its aim was to “maintain ‘benevolent oversight’ of wayward youth” in the spirit of rehabilitation, reeducation, and resocialization of juvenile delinquents.\textsuperscript{133} When juvenile crime increased, the system became more punishment oriented. Yet, the system’s preferences for punishment over rehabilitation has been considered ineffective in reducing recidivism, as demonstrated by the ever-increasing trends in juvenile crime.\textsuperscript{134}

Professionals responding to the needs of the community affected by juvenile crime must be mindful to place special concern and emphasis on responding to the needs of juvenile delinquents

\textsuperscript{130} Id.
\textsuperscript{131} Id.
\textsuperscript{132} ADVOCACY CENTER FOR THE ELDERLY AND DISABLED, FOR THE STATE OF LOUISIANA, DISABLED YOUTH AND THE JUVENILE COURT SYSTEM [hereinafter Disabled Youth].
\textsuperscript{133} THE NATIONAL COALITION FOR THE MENTALLY ILL IN THE CRIMINAL JUSTICE SYSTEM, RESPONDING TO THE MENTAL HEALTH NEEDS OF YOUTH IN THE JUVENILE JUSTICE SYSTEM viii (Joseph J. Cocozza, Ph.D., ed., Nov. 1992). [hereinafter Responding to Mental Health]. See also FRANCIS BARRY McCARTHY, PENNSYLVANIA JUVENILE DELINQUENCY PRACTICE AND PROCEDURE § 1-1. Juvenile courts began in Pennsylvania in 1901 and developed from a series of reform movements to change the harsh punishment of prison time meted out to juvenile offenders. Id. This movement began to save these children from wasting their lives. The most dramatic change occurred constitutionally, when due process rights provided by the United States Constitution attached to permit juveniles “fair trials.” See In Re Gault, 387 U.S. 1 (1967). See also JOHNA. PALMERI, PENNSYLVANIA JUVENILE DELINQUENCY § 3.3.2 (1976). Each reform effort added a new layer or stage in the development of juvenile rights. Id.
\textsuperscript{134} Responding to Mental Health, supra note 133, at viii. See also Hon. Charles M. McGee, Measured Steps toward Clarity and Balance in the Juvenile Justice SYSTEM 53 (1989) (unpublished M.J.S. thesis, University of Nevada, Reno) (on file with University of Nevada, Reno, library). Judge McGee asserts, "Sometimes punishment alone is enough. An elaborate individualized case plan may not be necessary for a simple petty theft for example. A young petit thief might learn lesson enough by a sentence which includes a few days of being locked up and an additional restitution order." He adds, "In many cases, of course, the Court will wish to retain its traditional jurisdiction over the whole family and order further services, to give the child a chance to improve on several fronts." Id.
Proposal for a Statutory Unified Family Court

with disabilities. In May, 1992, at a Special Work Session of The National Coalition for the Mentally Ill in the Criminal Justice System, professionals identified major areas to improve and guide the future juvenile justice system to meet the changing needs of youths involved in the juvenile justice system. These areas include research, inter-agency collaboration, neighborhood-driven programs, education, assessment of amenability to treatment, treatment specificity, funding mechanisms, diversion programs, reducing the stigma of having a child "with mental illness or a child in trouble," sharing information, and family participatory treatment. The twenty to sixty percent of juvenile offenders who have emotional disabilities and are in need of effective treatment would surely benefit from such an emphasis.

Many of the nation's troubled youth have underlying emotional disabilities, and many states are aware of the high incidence of learning disabled children in the juvenile justice system. For example, the number of children with learning disabilities in Louisiana correctional facilities has recently climbed to forty-eight percent. States estimate that juvenile offenders with disabilities range from forty to seventy percent of the population.

One early warning predictor of juvenile crime tendencies is the onset of academic difficulties in school. Many believe a truant child develops into a delinquent child. Children facing academic struggles often become so frustrated that they stop going to school, lose their self-esteem, and are at high risk for committing crimes.

Frustrated children are angry with their teachers and other authority figures, and this anger creates a hostile learning environment for everyone. Some experts suggest "if the mechanism of this stormy path, this link between early school learning problems, subsequent school failure and later adolescent juvenile delinquency could be more clearly delineated, then a more specific and cost effective intervention strategy could be established." A pre-

135. Id.
136. Id. at viii-ix.
137. Id. at vii.
139. Disabled Youth, supra note 132, at 1.
141. Id.
142. Id.
143. Id. at 12.
ventive strategy is a UFC with a vigilant judge assigned to a family to expedite scheduling cases of truant children before the court to have them return to school before they commit crimes.

Under traditional juvenile court jurisdiction and legislation, principles of punishment and "just desserts" replaced traditional goals of rehabilitating juveniles in an effort to deter crime.144 Some experts believe secure confinement accomplishes this goal, but other policy makers, including judges, have considered the expense and effect of placement in secure long-term treatment centers and instead sought the juvenile's family involvement as a more effective alternative.145

In Erie, Pennsylvania, for example, President Judge John Bozza has implemented a modified uniform family court, assigning one judge to one particular family involved in dependency, delinquency, termination and adoption matters. A resource management team was created to keep placement costs at a minimum while protecting the community. A child placement review board or a resource management team of professionals in each of the divisions of dependency and delinquency carefully reviews the file with the caseworker and/or the juvenile probation officer. After investigation, the team makes written recommendations to the court for appropriate planning of the juvenile's treatment while balancing and conserving taxpayer dollars. The team aims for quality treatment at the lowest expense for the community.146

This team approach combines the best interests of the juvenile and the community. The community is a stakeholder in the sense that taxpayers fund juvenile placements by paying taxes. The resource management team also reviews periodically the appropriateness of services provided to the child, including the juvenile's clinical treatment and counseling.147 By encouraging an expedited treatment process, this approach shortens placement time and thus lessens county expenditures. Juveniles currently in resident treatment centers return home expeditiously so that a steady stream of juvenile attendees who are newly in need of treatment can take their places. The resource management team provides "a watchdog function" so that no child is lost or ignored within the

144. Goldstein & Glick, supra note 129, at 6.
145. James W. Davis et al., The Design and Implementation of Family Foster Care Services for High Risk Delinquents, 48 JUV. & FAM. CT. J., No. 3, at 17, 21, and 30 (Fall 1997).
146. George, supra note 98, at 111.
147. Id.
system. A judge in a UFC monitors the team and can either accept or reject its recommendations.

With goals of conserving resources efficiently and effectively, other concepts have developed to provide intensive treatment within the juvenile's home. The juvenile participates in a detailed prepared curriculum to rehabilitate and hold her or him accountable. In Erie, for example, the Collaborative Intensive Community Treatment Program ("CICTP") was developed through the cooperative efforts of the Juvenile Probation Department, the Office of Children and Youth, and the Perseus House. After they attend a well-planned daily schedule of educational courses and treatment, juveniles are monitored in the evening by a counselor who verifies that curfews are followed. Programs such as CICTP decrease expenses in placements while increasing effects on juveniles. Intensive prepared curriculum programming is provided to each juvenile who qualifies for the program. Each program consists of specialized training for anger control, problem solving, leadership skills, effective communication, empathy, cooperation, interpersonal skills, moral reasoning, understanding groups, and recruiting supportive role models. These efforts teach juveniles to be members of society instead of antisocial deviants.

Such positive community programs have developed well in conjunction with the "one judge–one family" concept. The judge assigned to a particular family assesses the juvenile's progress while in treatment programs or placements. In fact, the "one judge–one family" concept is the most reliable modality to evaluate efforts of delinquency intervention because, theoretically, it offers closer monitoring; however, research has not been obtained yet to prove this point. Some experts assert that current delinquency intervention research lacks the necessary controls, sufficient samples, randomness of sample selection, adequate outcome measures, internal and external validity of statistics, and appropriate analyses required to be of great value.

The hands-on approach of an individually assigned judge monitoring the progress of a juvenile appears to be a very effective treatment method. If the child does not respond to a particular

148. Id. at 113.
149. Davis et al., supra note 145, at 21.
151. Id. at 10.
152. GOLDSTEIN AND GLICK, supra note 129, at 7. See also EDWARDS, supra note 126, at 10.
treatment modality, the assigned judge can bring the case forward to require the juvenile to attend a more restrictive treatment modality until she or he becomes actively involved with her or his own treatment. Refocusing team efforts with such a new plan also makes a juvenile competent for reintegration into the community after treatment is completed.\footnote{153}

With Pennsylvania's new three-prong policy approach to juvenile court cases, Pennsylvania judges in a UFC will evaluate and decide juvenile dispositions in light of considerations encompassing community protection, juvenile competency, and juvenile accountability. The UFC system consistently ensures each particular family is seen by one assigned judge who utilizes her or his discretion to continue to dispose of juvenile cases effectively, efficiently, and consistently for one family.

Judges have called and continue to call on the community to help improve the courts. Given its inclusive approach, the UFC is consistent with the need for judges to work toward the betterment of each family unit entering the court system. Community interaction is critical to successful judicial decision making regarding family issues:

Judges are asked to remedy the failure of community organizations in solving their problems. Judges are then seen as failures when they are unable to fashion a result to everyone's liking. The modern drama of judges curing the ills of society while at the same time being isolated from the support and resources of the community is tantamount to judges being cast out of the community\. The irony is that most judges make little effort to convey to the community the difficulties of the cases.\footnote{154}

The community of identifiable stakeholders in an effective justice system involves every resident of of a state, including those who never use the courts.\footnote{155} Indeed, "non-litigants pay for an ineffective system through increased taxes, higher insurance rates and less personal security."\footnote{156} Once in use, a "one judge–one family" court system must be assessed to see if consumers perceive that they are being properly served. A suggestion for a test is the following:

Do those being served grow as persons: do they, while being served, be-

\footnotesize{\begin{itemize}
\item 153. See Edwards, \textit{supra} note 126, at 44-46.
\item 155. \textit{Id.} at 44-45.
\item 156. \textit{Id.}
\end{itemize}}
come healthier, wiser, more autonomous, more likely themselves to become servants? *And* what is the effect on the least privileged in society: will she or he benefit or at least not be further deprived [and will] no one be hurt by the action, directly or indirectly?157

The courts have an obligation to the public to implement and then explore the effectiveness of a UFC system. The court's responsibility to the community is to respond to the problem of juvenile crime and violence, especially in view of the demands being placed on the juvenile court system's limited resources. By implementing community involvement through a team approach, the governmental branches will be providing a long-term strategy to make a difference that maximizes the welfare of each family unit.

In a "one judge–one family" court system, the court oversees and monitors each juvenile's progress with a particular sense of reward or satisfaction when success is achieved. Because incentives are valuable and rewarding tools, the federal government has created financial incentives to provide consistency in laws and community policies regulating youthful offenders.

The United States Senate is considering legislation that lowers the age at which youthful violent offenders may be certified as adults. This legislation also includes measures to expand the United States Attorney's jurisdiction over juvenile offenders. In addition, the Juvenile Crime Control Act of 1997, which has already been passed by the House, includes authorization for a $500 million block grant program to provide funds for prosecutors, local courts, and juvenile detention facilities to act "as an incentive to states to model their juvenile justice programs after the revisions to the federal criminal code."158

To qualify for funding, each state's governor must indicate

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157. *Id.* at 43.

158. See Thomas A. Henderson, *A Watch on Washington*, 34 CT. REV., Fall/Winter 1997, at 3. Apparently, authorization for the new program in H.R. 3 should not have been created in the appropriation bill already signed into law as H.R. 2267. However, the legislative branch, which "giveth and taketh away" appropriated without authorizing a bill. Although confusing, we should remember, "since the members make the rules, they can ignore them if the rules become inconvenient." *Id.*

Already signed by the President is a spending bill known as H.R. 2267, which includes for the year 1998 an appropriation of $250 million dollars in a grant known as "The Juvenile Accountability Incentive Block Grant" for a program yet to be authorized. Funds are pro-rated according to the juvenile population of each state.) Interestingly, the Attorney General administers this grant, not the Office of Juvenile Justice and Delinquency Prevention ("OJJDP"). Creators of H.R. 3, members of Congress, view OJJDP as "being soft on crime, excusing violent acts because of the age of the perpetrators." Barnes, *supra* note 2; Szymanski, *supra* note 4.
whether her or his state's existing or pending legislation imposes "graduated sanctions for juveniles, lower the age of direct filing at the discretion of prosecutors for violent acts of youths up to age 15, and maintain a system of records for repeat, adjudicated juveniles 'equivalent to that maintained for adults' if a subsequent offense is comparable to a felony." For funding purposes, the juvenile court system must prepare and coordinate a community-oriented plan "representing the police, sheriff, prosecutor, state or local probation services, juvenile court, schools, business and religious affiliated fraternal, non-profit, or social service organizations involved in crime prevention." For funding purposes, the juvenile court system must prepare and coordinate a community-oriented plan "representing the police, sheriff, prosecutor, state or local probation services, juvenile court, schools, business and religious affiliated fraternal, non-profit, or social service organizations involved in crime prevention.

The courts have begun to rely on the community approach to solve increasing caseload problems in family-related issues such as domestic violence. Judges in the State of Washington, for example, brought together community leaders and other citizens at several summits to provide "a springboard for the community to come together to address the issue of domestic violence." A community dialogue began as citizens realized "that the entire community, not just the criminal justice system, needed to establish a coordinated response to domestic violence." Similar community dialogues engage policy makers and other government leaders by emphasizing the true magnitude of the problem with America's youth. One area of great concern involves minority youth, especially African-Americans, who, although statistically underrepresented in many communities, are disproportionately represented at all levels of the justice system. Although the traditional court system's failure to understand and adequately address such issues as emotionally disturbed children may be a more evident criticism, the fragmented juvenile arm of the court has been also cited for its deficient treatment of minorities: "the juvenile justice system suffers from many of the same deficiencies related to cultural sensitivity and the provision of culturally appropriate services that many sectors of the mental health, education, and social services system have been charged with lacking." For instance, if African-American authors and advocates have no confidence in the American legal system, how can we expect the

159. Id.
160. Henderson, supra note 158, at 45.
162. Id.
163. Responding to Mental Health, supra note 133, at viii.
youth, a less educated segment of the population, to have confidence in our legal system to resolve disputes? The perception of the justice system on all levels is extremely important. For, indeed, "[J]ust because we in the judiciary think that we provide rational solutions to conflicts does not mean that our African-American brothers and sisters will automatically 'buy in' to our methods."

To meet the challenges of the next century, we must create programs and policies to bolster the judicial system’s trustworthiness and to encourage all segments of the community “to place their trust in the efforts of the judiciary.” Implementing the “one judge—one family” concept is not the solution; rather, it puts us on the road to a solution regarding the problem of perceived injustice. Moreover, “[j]udges are in a pivotal position to make a difference in the way the public views the legal system.” Judges, as active community leaders, are teachers of the law. Judges are also students of the law who must become more aware of the sources of racial and cultural differences. Judges attending and participating in new educational programs such as “Foundations in Pluralism” gain “a clear understanding of the culturally posited differences” in a group discussion format. In programs offering careful study of history and literature, judges gain new insights and perspectives from an examination of the writings of minority authors.

In light of the economic incentives to produce a UFC, judges now take an active role in opening doors for all citizens to begin to respect and trust the justice system through the most basic societal unit—the family. Judges must go further, however, to bolster this respect and trust by being culturally and socially sensitive to the needs of diverse community groups. Judges lead the community charge on behalf of all children when they advocate for adequate economic resources necessary for court-coordinated programs, such as a UFC. Judges are active community leaders when they participate in public education information forums and serve on an active or advisory basis for youth service commissions and organizations. Judges maintain respect and trust when they

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165. Id. at 46.
166. Id.
167. Id. at 39.
168. Id. at 46.
169. SZYMANSKI, supra note 4, at 15-16.
170. Id. at 16.
become more active role players in local bar associations and statewide judges’ organizations to advocate court policy or statutory law changes regarding a UFC.  

Under effective judicial leadership, the UFC will promote consistency and inclusiveness while providing the necessary ingredients for a solid judicial foundation for Pennsylvania. To accomplish this goal, we must examine the history of the Pennsylvania trial courts, the Pennsylvania Constitution, statutory law, and case law. Part V of this article undertakes such an examination. Pennsylvania stakeholders need to understand the importance of the governmental branches working together to implement a statewide UFC.

C. Familial Relationships as Economic Transactions

Judge Richard Posner has addressed issues of dependency, foster care, and adoptions in terms of free market concerns. He warns that because there are parents who love their children little or not at all, a state entity must impose legal duties to provide care and support for these children, education.

When a parent fails to follow through with necessary parental care, the court must place the child in foster care. In a traditional family court, the child could remain in foster care even after a series of hearings with various judges, each of whom consider the subject of permanency planning and the best interests of the child. Under the “one judge–one family” approach, the same judge focuses on the care and interests of a particular child placed in foster care and expedites the child’s case. To ensure the child’s well being, that judge closely monitors the case, including the care and performance of foster parents.

Posner posits that foster parents normally present an unsatisfactory solution for children because the foster parents lack any incentive to reunify the family. After all, the foster parents lose remuneration when reunification between the child and the natural

171. Id.
172. Id. at 15.
174. Id. at 150.
176. Id. at 64.
parents occurs. The state, according to Posner, should lack trust in foster parents because foster parents have no property rights in a child's lifetime potential. In Posner's view, foster parents as a group lack incentives to invest in maximizing a child's potential for earnings. He asserts that the problem of children being mistreated in foster care is far more serious in foster homes than in placement institutions.

In reality, however, children can flourish socially with the personal care and attention of foster parents. A foster family approach can always provide children with more care and attention—both physically and psychologically and especially in the early formative years—than can the cold walls of a crowded custodial institution. Although it may provide adequate physical care, an institution lacks the ability to provide the necessary social care.

Posner has suggested an early intervention through adoption even before parents neglect their children. The legal hurdle, however, is that neglect must rise to the level of abandonment before the court system will terminate parental rights and place the children for adoption. Under the "one judge—one family" model, the courts can intervene at the custody stage to make an early decision regarding neglect, if warranted, and, after due process hearings, the court can place a child in foster care. By so doing, the courts take strong and active steps to ensure that families receive the help to which they are entitled.

D. The Marital Institution as an Economic Unit

The institution of marriage is, in essence, a business partnership. Marriage is a business contract that traditionally lacks specific terms. It differs only on certain points from commercial contracts.

Today, however, Posner and others with an understanding of the

177. Id.
178. Id.
182. Goldstein et al., supra note 54, at 47-48.
185. Id.
186. Id.
theories of law and economics might be impressed from a business standpoint by the evolving body of marital law in Pennsylvania emphasizing the importance of upholding premarital contracts.\textsuperscript{187} Marital property contracts are upheld in Pennsylvania provided there has been full disclosure of assets.\textsuperscript{188} Courts, therefore, apply sound business contract principles to these marital contracts.\textsuperscript{189} The meeting of the minds properly occurs when the parties enter into the antenuptial agreement with knowledge of the separate assets of each marriage partner.\textsuperscript{190}

Posner details severe sanctions that occur more often in marital discord than in everyday commercial contracts.\textsuperscript{191} Posner asserts that if one spouse abandons the other, the abandoning spouse not only pays damages in the form of support, but also defers remarriage until the original union's complete dissolution, including equitable distribution.\textsuperscript{192} Pennsylvania has changed this concept by permitting bifurcation of divorce from equitable distribution of assets so that, in a fault divorce, the parties may remarry while the economic claims remain pending before a court.\textsuperscript{193}

As evidenced by this progress on marital issues, jurisdictions such as Pennsylvania are finding that bifurcation encourages settlements by freeing the parties from being "held hostage to economic demands."\textsuperscript{194} Some critics argue that, when bifurcation occurs, the case languishes and the parties are involved in protracted litigation. Because the financially healthier spouse can afford to delay the economics of the case and yet be free to remarry, the

\begin{enumerate}
\item[188.] Simeone v. Simeone, 581 A.2d 162 (Pa. 1990).
\item[189.] Id. at 167.
\item[190.] Id. In corporate law, a similar principle of disclosure is utilized regarding acquisition transactions. The lawyer's duty is to perform "due diligence" in reviewing the legal records and reports affecting an acquired company. The lawyer must perform this review "carefully." This involves considerable attention to disclosure and review of corporate matters by both sides' lawyers. Lawyers prepare comprehensive checklists to investigate these corporate matters. Interviews and investigations are conducted by lawyers with the officers, key employees, suppliers, customers, regulatory authorities, principal(s), and shareholders. Investigations are done through courthouse lien search records, Dunn & Bradstreet report searches, and news article searches. GEORGE T. BISEL & MATTHEW BENDER & CO. 2 DUNLAP-HANNA PENNSYLVANIA FORMS (rev. ed. 1997).
\item[191.] POSNER, supra note 173, at 143.
\item[192.] Id.
\item[193.] WILDER, supra note 36, § 16-1.
\item[194.] Id. The parties bring closure to the emotional ties of the marital union and now face the economic reality of leading separate lives through equitable distribution of marital property. Id.
\end{enumerate}
less financially sound spouse is disadvantaged. However, just as any “business” facing liquidation, the parties in a divorce can stipulate to specific trial dates that cannot be changed without court approval. Certain status quo conditions attach pending final disposition through equitable distribution, such as health insurance premiums to benefit the less economically advantaged spouse. Such conditions motivate the other party to proceed to dissolve the economic claims.

In a departure from Posner’s initial determination, family court enjoys and recognizes the benefits of using business contract principles to settle differences for the betterment of the “business” of the household. This approach is consistent with Posner’s view of a household as a small business or factory. As a sound business approach, the UFC system would further the combined missions of both the family and the courts by encouraging more alternative dispute resolution methods to settle marriage dissolution. This result, bolstered by the reduced emotional trauma for children when parties facilitate their own settlement of marital property issues, illustrates the greater effectiveness and efficiencies a UFC will provide Pennsylvanians.

Posner’s economic theory of marriage and children incorporates the state’s desire to maximize the aggregate welfare of its citizens, especially children. Posner theorizes that an important aspect of the business of a state court is to benefit the welfare of its citizenry by maximizing our children’s potential as adults. To achieve an optimal level of lifetime utility for children, he believes the state demands a considerable investment from parents in terms of both parental time and various market inputs, such as food, clothing, and education. In addition, he advocates that communities possess a profound interest and expectation in maximizing the combined welfare of its children, their parents, and other family members. It is the intent of this article to prove that the “one judge—one family” model promotes and fulfills Posner’s economic theory to benefit Pennsylvanians by maximizing the interests of the entire citizenry.

195. Id.
196. WILDER, supra note 36, §16-1.
197. Id.
198. POSNER, supra note 173, at 149.
199. Id.
200. Id.
201. Id.
E. Marginal Analysis

As Abraham Lincoln is quoted as stating, "A lawyer's time and advice are his stock in trade."\(^\text{202}\) One valuable resource for the entire legal system is time, a prioritized commodity. By choosing one activity, one foregoes the opportunity to do something else, thereby incurring opportunity costs. Reading this law review article is, indeed, an opportunity cost that is the "next best alternative use of your time."\(^\text{203}\) The scarcity of time and the choices one must make renders one's time a valuable resource. Whether one has a small or a large quantity of time available is not relevant to the economics term of scarcity. "Scarcity means that there are alternative uses for limited resources."\(^\text{204}\)

A litigant's decision to settle her or his case is that litigant's opportunity cost. This litigant may choose to spend her or his time doing something other than attending a trial. Perhaps such a litigant, by choosing settlement, is also choosing to spend vacation time in Hawaii.

These choices made by consumers or litigants need not be of such a magnitude as a choice between a vacation in Hawaii or a week-long hearing in Erie, Pennsylvania. In fact, economists indicate that most individuals confront choices on a smaller scale, such as choosing to spend a one-hour lunch break at court or choosing to settle a case to enjoy a relaxing lunch break.

Moreover, consumers are willing to accept substitutes. Economists describe choices as "at the margin" where the margin is the impact arrived by "a small change in one variable on another variable."\(^\text{205}\) The following example best illustrates decision making at the margin:

Suppose that you attempt to purchase a bag of pretzels by inserting fifty cents into a vending machine and pushing the appropriate vending machine buttons. Your actions demonstrate that your ex-

\(^\text{202}\) This quote is attributed to Abraham Lincoln on a plaque produced by the Allen Smith Co., Indianapolis, Indiana, from Bulletin of Lincoln National Life Foundation. OXFORD DICTIONARY OF AMERICAN LEGAL QUOTATIONS 275 (1993).

\(^\text{203}\) POSNER, supra note 173, at 4. Opportunity costs, which are foregone opportunities sacrificed to perform a certain item, is also shown by the following: "For example, a tailor may be able to sew either a pair of pants or two shirts in an hour. If the tailor opts to make the pants, his opportunity cost will be the two shirts that could have been made in the same time. RESEARCH AND EDUCATION ASSOCIATION, ESSENTIAL OF MICROECONOMICS 3 (1997).

\(^\text{204}\) MILTON H. SPENCER & ORLEY M. AMOS, JR., CONTEMPORARY MICROECONOMICS 3 (8th ed. 1993).

\(^\text{205}\) Id. at 4.
pected marginal benefit from the bag of pretzels is greater than fifty cents. Unfortunately, you failed to notice (prior to selecting the pretzels) the next slot for a pretzel bag was empty and you did not receive anything for your fifty cents. You are very confident a bag of pretzels will be dispensed if you spend an additional fifty cents. A friend says you are unwise to pay one dollar for a bag of pretzels selling for fifty cents, but you reply that, on the margin, the next bag costs fifty cents and that your marginal benefit from this bag of pretzels is still more than fifty cents. You further explain that the first fifty cents was in the past, and there was nothing that could be done about it. The first fifty cents was a sunk cost, and sunk costs do not affect your future decisions because you make decisions on the margin.\textsuperscript{206}

Economists describe the basic rule of marginal analysis as the marginal benefit of an activity being greater than the marginal cost of an activity.\textsuperscript{207} Applying this economic theory to family court would entail evaluating marginal benefits versus marginal costs. An example of marginal benefit analysis is the consistency of decision making achieved through the use of the UFC approach versus the marginal cost of having a single judge making decisions that are not particularly liked or appreciated by the litigants.

If the marginal benefits of the UFC concept are greater than are the marginal costs, economists say, “do it.” Therefore, in the spirit of economics this article proposes the courts implement the UFC concept when consistency and time far outweigh costs. The courts affect the parties by offering them incentives to resolve their own differences, such as settling the case early to avoid a decision made by a judge who may be disliked by one or both of the litigants.

\section*{F. Utility}

Another basic economics term involves the important psychological component of utility.\textsuperscript{208} Consumers obtain utility by purchasing goods and litigants obtain utility by seeking favorable decisions or outcomes. Litigants also obtain utility by avoiding judicial outcomes that give them pain.\textsuperscript{209} Utility measures the level of satisfaction that a person achieves from consuming goods or un-

\begin{itemize}
\item \textsuperscript{206} Id. at 4-5.
\item \textsuperscript{207} Id. at 5.
\item \textsuperscript{208} ROBERT S. PINDYCK & DANIEL L. RUBINFELD, MICROECONOMICS 88-89 (1998).
\item \textsuperscript{209} Id.
\end{itemize}
When applied to the UFC system, utility would track preferences obtained by consumers of this concept through their contact with the court and court-related services.

As the court system becomes more predictable, consumers better understand their opportunity costs and achieve a higher level of utility. Consumers achieve greater satisfaction from the court system when one judge, who is experienced in the particular field of law and acquainted with the needs of a particular family, makes decisions on a multitude of related issues affecting the same family. Hence, consumers achieve more utility in the UFC system.

G. Consumers Maximizing Their Self-Interest

Still another basic economic principle relative to our study of consumer choices is the assumption that consumers behave rationally "to maximize their 'self interest." Economists, including Michael C. Jensen and William H. Meckling, have termed this behavior as Resourceful, Evaluative, Maximizing Model ("REMM") and have identified four postulates to REMM.

The first postulate is every individual cares about "almost everything from interpersonal relationships to the weather" and evaluates items by making preferences and substitutions or tradeoffs. For instance, a litigant evaluates and substitutes by choosing to settle for a large quantity of A over a small quantity of B.

The second postulate is each consumer's wants are unlimited and her or his wants or values become "goods." She or he prefers to have more goods rather than less. Goods are defined as "anything from art objects to ethical norms." In family court, litigants seek outcomes such as child support, custodial rights, or the permanency of adoption. As indicated by the number of repeat users

210. Id.
211. ROBERT COOTER & THOMAS ULEN, LAW AND ECONOMICS 17 (2d ed. 1997) (these preferences by consumers are purely subjective, as illustrated). Each individual is unique and therefore so are their preferences. As the saying goes, "Different strokes for different folks." Because individuals have different preferences and different tastes, the strength of the order of these preferences is not a concern for the economist. Instead, economists point to other disciplines such as psychology and sociology to study sources of preferences. Economists take consumer tastes and preferences as a given in that they are determined outside the economic system. (The economics term for this concept is "exogenous.") Id. at 17.
212. BUTLER, supra note 85, at 5.
213. Id. at 6.
214. Id. at 7.
215. Id.
of the system, these wants illustrate the unlimited goods available in family court.

The third postulate is each individual maximizes her or his share of wants of goods because constraints such as time and money affect the opportunities available to this individual. In family court, the cost of losing compensation time from work to prepare and file a petition for child support as well as to attend a child support hearing may not enable maximize an individual's want for an increase in child support, which is a good. However, the litigant assesses the marginal benefits versus the marginal costs. If the marginal benefits are greater than are the marginal costs, the litigant, as a court consumer, will file a motion to modify child support so as to increase the current amount of child support.

The fourth postulate assumes that an individual is resourceful in creating her or his new opportunities. A consumer in family court may choose to mediate to achieve their wants so as to bring finality to her or his "cause" rather than to litigate through the court process. Resourceful consumers may choose to have a mediator facilitate a child custody dispute instead of risking lengthy litigation, emotional trauma to involved people, and ensuing court appeals. Under the traditional family court model, individuals may more easily vent anger with opposing parties by pursuing irrelevant issues or engaging in vexatious conduct. Under the UFC approach, in which one judge decides all issues involving the parties, court actions and frivolous motions generated by one party to harass the other rather than to resolve a legally relevant issue can be more easily identified and dismissed.

REMM also affects the litigants' behavior when those litigants face new constraints, such as new operating procedures in family court. Consumers are very creative and a "constraint or law will almost always generate behavior which was never imagined by its sponsors." For example, when the federal government imposed the fifty-five mile per hour speed limit in the interest of conserving gasoline and diesel oil, it did not anticipate the creativity generated by human behavior in the form of REMM. Because they valued their time more than cost, many consumers were willing to exceed

216. Id.
217. BUTLER, supra note 85, at 7.
218. Id. at 8.
219. Id. at 8-9.
the speed limit and incur the cost of fines. Enforcement agencies, such as state police, had to invest in better radar equipment to enforce the speed limit. In turn, consumers, invested in radar detectors. Another example of REMM-inspired behavior change is that many consumers chose alternative travel methods, such as airplanes, to save time. In the court system, litigants who choose mediation over lengthy, expensive litigation are engaging in REMM-inspired behavior. Litigants will make more of these types of choices in the UFC system.

UFCs implement new rules of law to provide “incentives for being part of the solution to the problem under litigation [and to] establish . . . a means by which fairly bargained and resolved disputes can be rewarded to institutionalize cooperative problem solving into the court system.” An example of REMM at work in a UFC is consumers’ increased willingness to utilize private mediators or binding arbitration to resolve their difficulties outside of the standard work hours. Access to mediation centers with evening hours will mean fewer cases in family court. Is that so bad? Adam Smith perhaps best explained human behavior and choices:

> [E]very individual necessarily labours to render the annual review of the society as great as he can. He generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. By preferring the support of domestic to that of foreign industry, he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was in no part of his intention. Nor is it always the worse for the society that it was no part of it. By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it .... every individual, it is evident, can, in his local situation, judge much better than any statesman or law-giver can do for him.

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220. Id.
221. Id.
222. BUTLER, supra note 85, at 8-9.
223. Id.
225. BUTLER, supra note 85, at 23.
226. ADAM SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS, 423 (1776) quoted in BUTLER, supra note 85, at 23.
As applied to the court system, Smith's theory means that, by pursuing their own interests, such as the interest in receiving increased child support, litigants unknowingly create an "invisible hand" that affects the court system's overall interest through the vehicle of the UFC.

As a result of the more consistent decision making that results from a UFC, families are guided to make better choices, which benefit them, as well as the entire community. The individual attention to each family that is achieved through the UFC is deserved and valuable, because it both recognizes each family as a unique unit and benefits the court system as a whole.

Judges who are familiar with each family can render decisions to maximize the best interests of children. This article proposes that the UFC will also create an invisible hand to guide and lead the entire court system effectively and efficiently into the twenty-first century.

H. Beneficial Economic Consequences

Enacting a UFC model will produce consequences "at the margin" and measurably enhance the family court system's efficiency and effectiveness. Basic economics teaches that society has everything to gain by utilizing this concept, for it is far more important to look at long-range effects than at short-term goals. Applying this concept to the family court system, economics advocates a system that traces long-term effects on all families as opposed to a system that focuses on a specific issue at bar. Actual economic consequences will be identifiable only through the implementation of the UFC method. The Greek playwright Sophocles answers those who would recommend deferral: "One must learn by doing the thing; for though you think you know it you have no certainty, until you try."

V. CURRENT LEGAL FRAMEWORK

A. Pennsylvania

Courts of common pleas are courts of general trial jurisdiction

227. HENRY HAZLITT, ECONOMICS, IN ONE LESSON 17 (1979).
228. Id.
229. HARRIS, supra note 89, at iii.
and have existed in Pennsylvania at least since the enactment of the Pennsylvania Constitution in 1776. Before Pennsylvania amended its constitution in 1968, there existed not only courts of common pleas, but also courts of oyer and terminer and general jail delivery, quarter sessions of the peace, and orphans' courts. Pennsylvania's amended constitution abolished these separate courts and incorporated them into the common pleas courts. Article 5, section 5 of the Pennsylvania Constitution establishes one court for each of the sixty judicial districts, which generally follow the geographic boundaries of the commonwealth's counties.

Each judicial district consists of divisions and has "unlimited original jurisdiction in all cases except as otherwise provided by law." Title 42, section 931(a) of Pennsylvania Consolidated Statutes vests the courts of common pleas with "unlimited original jurisdiction of all actions and proceedings, including all actions and proceedings heretofore cognizable by law or usage in the courts of common pleas." Pursuant to section 931(b), their jurisdiction "shall be exclusive except with respect to actions and proceedings concurrent jurisdiction of which is by statute or by general rule adopted pursuant to section 503 vested in another court of this Commonwealth or in the district justices."

In Commonwealth v. Wadzinski, the Pennsylvania Supreme Court held that one of the legislature's purposes in reconstituting or consolidating powers of jurisdiction within a "unified" court of common pleas was "to simplify procedure and remove archaisms from the judicial system."

Since January 1, 1969, the only court of original jurisdiction recognized and established as a court of record has been the reconstituted court of common pleas. An examination of the pre-amendment system reveals that cases had been dismissed because
they were brought in the wrong court.\textsuperscript{237} In \textit{Wadzinski}, the Pennsylvania Supreme Court rejects the view that such a procedural error should prove fatal, holding "if the matter is justiciable, there is jurisdiction in the court of common pleas to hear it, and in a multi-division court the remedy for bringing the case in the wrong division is not a dismissal, but a transfer of the matter to the correct division."\textsuperscript{238}

This "uniformity" in the jurisdiction of the court of common pleas did not prohibit court divisions.\textsuperscript{239} Section 951(c) provides for separate orphans' court divisions in eighteen other counties.\textsuperscript{240} Therefore, an orphans' court division was included within the court of common pleas of any county that did not have a separate orphans' court division.\textsuperscript{241}

Another section of Title 42 confers a domestic relations section for the purpose of assigning court staff only. Section 961 provides that "[e]ach court of common pleas shall have a domestic relations section, which shall consist of such probation officers and other staff of the court as shall be assigned thereto."\textsuperscript{242}

Both statutory law and case law vest each division of a court of common pleas with the "whole" court's full jurisdiction. According to the Pennsylvania Superior Court, jurisdiction of a contract or assumpsit action by a former wife against her former husband can be enforced in any division of the court of common pleas because each division has the authority of the "whole" court.\textsuperscript{243} In determin-

\textsuperscript{237} \textit{Wadzinski}, 401 A.2d at 1132.
\textsuperscript{238} \textit{Id}.
\textsuperscript{239} Title 42 specifically divides the courts as follows:
(a) Philadelphia County.-The Court of Common Pleas of Philadelphia County shall have the following divisions:
(1) Trial division.
(2) Orphans' court division.
(3) Family court division.
(b) Allegheny County.-The Court of Common Pleas of Allegheny County shall have the following divisions:
(1) Civil division.
(2) Criminal division.
(3) Orphans' court division.
(4) Family division.
\textsuperscript{240} These courts of common pleas include those of Beaver, Berks, Bucks, Cambria, Chester, Dauphin, Delaware, Erie, Fayette, Lackawanna, Lancaster, Lehigh, Luzerne, Montgomery, Schuylkill, Washington, Westmoreland, and York counties. 42 PA. CONST. STAT. § 951(c).
\textsuperscript{241} 42 PA. CONST. STAT. § 951(d).
\textsuperscript{242} 42 PA. CONST. STAT. § 961.
\textsuperscript{243} Guerin v. Guerin, 442 A.2d 1112 (Pa. Super. 1982). \textit{See also} In re Estate of Can-
ing proper jurisdiction, the court division to which a type of case had been administratively assigned is not relevant.\textsuperscript{244}

Regarding "juvenile court," the Pennsylvania Superior Court held, in \textit{Commonwealth v. Johnson}, that neither the Pennsylvania Constitution nor statutory law confers separate subject matter jurisdiction for "juvenile court"; rather, there exists one court of common pleas composed of separate court divisions and vested with "whole" court jurisdiction.\textsuperscript{245} Each division with the court of common pleas is considered to be vested with jurisdiction of the whole court.\textsuperscript{246} Therefore, once a case has been allocated to a division, a court's decision thereafter binds the whole court with respect to procedural rights such as double jeopardy. Thus, in \textit{Johnson}, a case of first impression, the Pennsylvania Superior Court ruled that once the juvenile court had adjudicated the defendant as delinquent, the defendant's subsequent criminal prosecution as an adult violated the defendant's right to be free from double jeopardy.\textsuperscript{247} The superior court found that holding otherwise would permit the Commonwealth to reprosecute a minor as an adult, thereby subjecting an individual to multiple prosecutions for the same offense.

The Pennsylvania Supreme Court reviewed \textit{Johnson}\textsuperscript{248} and recognized the intent of Pennsylvania's legislature to vest limited and exclusive jurisdiction in a "special needs" court for juveniles.\textsuperscript{249} The court viewed juvenile court as a legislatively crafted exception to the section 952 grant of full jurisdiction to the "whole court."\textsuperscript{250} The supreme court noted that, although the legislature granted juvenile court separate operating powers regarding the "special needs of our youth," juvenile court must have proper jurisdiction for its rulings to bind the whole court.\textsuperscript{251} The court seemed intent on avoiding "absurd" results that could arise if juvenile court did not have "proper" jurisdiction.\textsuperscript{252}

For example, an adult erroneously believed to be a juvenile could have her or his case heard by the juvenile division. Obvi-
ousley, the court would follow its own procedures and rules. It would make its final determination and dispose of the case using the limited methods of rehabilitation available. This adjudication would, nonetheless, be binding and, as such, would preclude proper prosecution in the criminal division because of the privilege against double jeopardy.\textsuperscript{253}

The supreme court opted for "a more reasonable reading of section 952" as follows:

\begin{quote}
[E]very division of the court of common pleas [has] the jurisdiction to transfer any case properly heard in the court of common pleas to the proper division having subject matter jurisdiction over that particular matter. This would also take into account the fact that the power and authority of the court of common pleas is defined and limited by legislation.\textsuperscript{254}
\end{quote}

The Johnson Court carefully defined "jurisdiction" using the plain meaning provided in Webster's Collegiate Dictionary; that is, as "the power, right or authority to interpret and apply the law" or "the limits or territory within which authority may be exercised."\textsuperscript{255} Applying the definition, the court held the transfer order to be jurisdictional "in every sense of the term" and further ruled that "if the challenged order is improper, jurisdiction does not vest with the receiving court. If jurisdiction does not vest with the court, then jeopardy likewise does not attach."\textsuperscript{256}

The court reviewed the "propriety" of Johnson's transfer order and found the trial court had properly transferred the case to juvenile court.\textsuperscript{257} The transfer order was also appealable of right; therefore, the court admonished the commonwealth's counsel for failing to immediately appeal the transfer order. According to the court, such an appeal would have avoided "unnecessarily placing an individual through the stress and burden of two separate proceedings for the same conduct."\textsuperscript{258}

In Johnson, the court makes an important point about the equal stature of the juvenile court with the other divisions in the court system. Precious constitutional rights, such as the privilege against double jeopardy, do attach for a juvenile in juvenile court.

\begin{itemize}
\item \textsuperscript{253} Id.
\item \textsuperscript{254} Johnson, 669 A.2d at 321 (emphasis added).
\item \textsuperscript{255} Id.
\item \textsuperscript{256} Id. at 321-22.
\item \textsuperscript{257} Id. at 322-23.
\item \textsuperscript{258} Id.
\end{itemize}
In Pennsylvania, the juvenile court can bind the other divisions with its rulings on behalf of the "whole" court, provided it was initially vested with proper jurisdiction.

An economic discussion regarding the proposal for a UFC in Pennsylvania should address judicial system. The Pennsylvania Supreme Court appointed a Master to address and plan for the implementation of a unified court's structure. Beginning with Allegheny I, in 1987, the supreme court ruled that the statutory scheme obligating counties to fund common pleas courts violated the 1967 constitutional mandate that had created the unified judicial system.259

In Allegheny I, the court explored the plain meaning of the word "unity."260 The court pointed to difficulties arising from labor management issues "embroiling" judicial districts against county commissioners, for instance, and "their history of strife."261 The court remarked, "[i]t goes without saying that when relations between the judicial branch and the county governments deteriorate to the point where litigation is required to settle disagreements as to funding, the relationship is neither harmonious nor unified, but rather, fragmented."262

Justice John Flaherty, now Chief Justice of the Pennsylvania Supreme Court, wrote that the court should not only review the literal meaning of the words "unified judicial system," but should also be aware of the legal and constitutional implications of these words.263 In addition to its duty to provide appropriate staff who are not influenced by local political figures, the court must also strive to ensure neutrality and fairness in governing the disposition of every case and to improve the public's perception of justice.264 Justice Flaherty wrote:

But if court funding is permitted to continue in the hands of local political authorities it is likely to produce nothing but suspicion or perception of bias and favoritism. As the framers of our constitution recognized, a unified system of jurisprudence cannot tolerate such uncertainties. All courts must be free and independent from the occasion of political in-

260. Id. at 763 (citing the definition supplied in Webster's Dictionary: "to cause to be one: make into a coherent group or whole: give unity to: harmonize.").
261. Id. at 764.
262. Id.
263. Id.
fluence and no court should even be perceived to be biased in favor of local political authorities who pay the bills.\textsuperscript{265}

For these reasons, the Pennsylvania Supreme Court held, in Allegheny I, "the statutory scheme for county funding of the judicial system is in conflict with the intent clearly expressed in the constitution that the judicial system be unified."\textsuperscript{266} Interestingly, the court, in a patient and insightful effort to provide the state legislature with the necessary time to enact "appropriate funding legislation," entered its judgment for the county as follows, "until this is done, the prior system of county funding shall remain in place."\textsuperscript{267} Justice Flaherty noted "the authority of this court to direct payment of funds necessary for the funding of the judicial system does not intrude upon the legislative power of appropriation, but is merely an exercise of this Court's inherent power to preserve itself as a coordinate branch of government."\textsuperscript{268} The Allegheny I Court also credited Northern Pipeline Co. v. Marathon Pipe Line Co., wherein the United States Supreme Court maintained a constitutionally flawed system until Congress could review and replace it.\textsuperscript{269}

In response, Pennsylvania's legislature appropriated one million dollars to examine and evaluate the options in enacting legislation to effectuate a change. However, this appropriation was "apparently never used for the intended purpose."\textsuperscript{270} In 1996, in Allegheny II, the supreme court held that a writ of mandamus is an appropriate manner in which to enforce funding a unified court system.\textsuperscript{271} The court recognized that the general assembly has the mandatory obligation to fund the state courts and that the petitioners have no other remedy at law.\textsuperscript{272}

The court then pointed to stare decisis in Pennsylvania cases

\textsuperscript{265} Id. at 765.
\textsuperscript{266} Id.
\textsuperscript{267} Id.
\textsuperscript{268} Id. at n.2.
\textsuperscript{269} Allegheny I, 534 A.2d at n. 3 (citing, Northern Pipeline Co. v. Marathon Pipe Line Co., 458 U.S. 50 (1982)).
\textsuperscript{272} Id. at 702.
regarding the co-equality of the three branches of government. The court recognized the legislature’s necessary taxing and spending powers to sustain the judicial branch and stressed the need for cooperation among the three branches of government. The Allegheny II Court cited the case of Beckert v. Warren, as standing for the court’s power to compel the legislature, which “has the power of life and death over all the courts,” to fund the judiciary for “proper functioning and administration.”

In Allegheny II, the supreme court emphasized the importance of “the continued existence of an independent judiciary” and then concluded:

Because this court has attempted to act cooperatively with the General Assembly and has denied prior petitions for enforcement, allowing the General Assembly a period of nine years to enact a funding scheme which would provide the necessary financial support for state courts, and because the General Assembly has failed to act within this extended reasonable period of time, we now grant petitioner’s request for a writ of mandamus. Pursuant to this writ, jurisdiction is retained and by further order a master will be appointed to recommend to this court a schema which will form the basis for the specific implementation to be ordered.

Finally, the court ordered the appointment of a Master, Senior Judge (former Justice) Frank J. Montemuro, Jr., to recommend a plan to implement a unified judicial system.

In his Master’s Report, Senior Judge Montemuro, before reporting on the economic advantages and disadvantages of a unified court, discussed current consumer perceptions of the court’s impartiality and independence:

It is, in fact, public perception, or rather misperception of the judicial system, its components and its functions which, in part, fuels the contention over state funding. First, the anachronistic view that ‘courts [are] a place where people in black robes make bad decisions.’ Is not entirely facetious, in some measure because the expanding role of the courts in providing, e.g., social services, is not well entrenched in public awareness. ‘Justice’ is an abstraction, and the danger, as Justice Pomeroy points out in a slightly different context, is lest the court system be seen as merely another competing need, like a hospital or a park, not ‘a separate branch of government, co-equal with the executive and

273. Id. at 702, 703.
275. Allegheny II, 681 A.2d at 703.
276. Id. at 703.
277. Id. at 700.
The difference is, in fact, between what can be called 'therapeutic jurisprudence' versus the 'dispassionate magistrate' model; the latter image prevails, with variations, in the public imagination despite the emerging dominance of the former. Moreover, the expense of funding an abstraction provides another sticking point, as the counties must rely almost exclusively on the proceeds of local real estate taxes, and in some areas a shrinking base for such taxes, to fund the judicial effort.\textsuperscript{278}

The Master urged that "it must be made crystal clear in formulating a transition plan that state funding of the unified judicial system is not merely an economy measure."\textsuperscript{279} He warned that, although this plan is not a solution to local taxation difficulties or balance of power issues, both will be affected.\textsuperscript{280} He also emphasized the need for adequate funding, citing a statement by the chair of the American Bar Association's Ad Hoc Committee on Funding the Justice System: "The independence and autonomy of an organic Court system is attacked from within by under allocations as well as "conspicuous attacks from without."\textsuperscript{281}

The Master determined that implementing the plan would produce economic advantages that are absent under the current court plan. These advantages were: "more stringent state reporting requirements, more rigorous standards of efficiency and accountability."\textsuperscript{282} The disadvantages included increased expenses inherent in state financing; "compensation for prior deferred county spending; upgrades of personnel, services and technology to meet statewide standards; any necessary improvement of salaries and fringe benefits; [and] equalization of regional disparities in programs and services."\textsuperscript{283}

The Master attributed the current system's deficiencies to the diverse systems in accounting being employed in different localities and to the lack of sufficient administrative infrastructure to enforce "more rigorous standards."\textsuperscript{284} Once the plan is implemented, however, Senior Judge Montemuro predicted that management will become more effective, competent, and efficient, prognosticating that "[o]nce in place, this central managerial core will be able to define its local executive organization, capable of

\textsuperscript{278} Montemuro Report, supra note 270, at 8-9.
\textsuperscript{279} Id. at 9.
\textsuperscript{280} Id.
\textsuperscript{281} Id.
\textsuperscript{282} Id. at 9-10.
\textsuperscript{283} Montemuro Report, supra, note 270, at 10.
\textsuperscript{284} Id at n.13.
providing the necessary services, and trained in the accounting and auditing procedures, human resource and computer systems necessary for compliance with state standards." He also commented that diverse local court rules were "traps for the unwary" and frustrated the multi-jurisdictional practice of law. This frustration has "inevitably eroded public trust and confidence in the judicial branch" by "driving up litigation costs and increasing delays."285

The Master's four-phase plan targets July 1, 2000, as the specific date to implement Phase II.286 He raised other considerations that must be taken into account to make necessary changes for achieving Pennsylvania's unified judicial system:

However, change does not occur in a vacuum. Even these impulses alone might not have occasioned the massive reformation implicated by a transition to state funding were it not for changes in our culture which dictate increased contact between the average citizen and the courts: increases in litigiousness and a resulting recourse to the courts for solutions to new problems occasioned by advances in technology and science, by the changing nature of the family, increases in the crime rate, and by changes in the function of a court itself, as its involvement in the community becomes more complex and multi-faceted. The changes wrought by a transition as far reaching as this must of necessity be profound; they will also be positive, affecting the Judiciary's relationship with the citizens of the Commonwealth whom it serves, as well as with the two sister branches of government with which it serves.287

The Master concluded that his recommendations "will serve to bolster public trust in the judiciary, whose members are officials chosen by the electorate to be invested with the responsibility of evaluating the means and fulfilling the need for equal justice, equally accessible to all citizens."288

Although the Master's recommended plan for a unified court envisions "bolstering" public trust, it does not include a vision of a UFC. Family court is a necessary component to maintaining the public's trust and a UFC has goals that are consistent with the goals for implementing a unified judicial system. This article recommends the "one judge—one family" concept be considered as a relevant phase of this unified judicial plan.

285. Id. at 24.
286. Id. at 28.
287. Id. at 34.
288. Montemuro Report, supra note 263, at 34.
B. Other Jurisdictions

In 1914, Hamilton County, Ohio, created the first family court on a local level. It was not until 1961 that the State of Rhode Island implemented a statewide comprehensive family court. In 1965, Hawaii followed this lead with a very comprehensive statute. These pioneering states were followed by other jurisdictions: South Carolina (1968); the District of Columbia (1970); Delaware (1971); Louisiana (1979); New Jersey (1984); and Vermont (1990). In addition, various family court pilot projects were created in the states of Florida, Kentucky, Maine, and Virginia.

Kansas state district courts are currently experimenting with authorizing a UFC by “permissive” statewide court rule “to improve the treatment of children and families.” The Kansas courts’ implementation study recommended that the Kansas legislature make a “long-term fiscal commitment” to adopt a statewide family department for the district courts and advised the judiciary to lead this charge with a long-term commitment to establish and maintain this family department.

Another recommendation is for the Kansas Legislature to consider developing “an effective case management information system by relaxing confidentiality restrictions on information that will assist families in the court system.” This system would relax restrictions on information and encourage sharing of information between the various subparts of family court. The current lack of information sharing is an area of concern for the courts because an understanding of the particular families in the system is critical to the success of a UFC. Each area within the family department needs to release information to enhance the performance of other departments.

Kansas’ proposed family department would include jurisdiction over divorce, annulment, separate maintenance, custody, support, paternity, visitation, termination, dependency, adoption, juvenile

290. Id.
291. Id.
292. Id. at 5. In addition, unified family courts have been recognized internationally since they have been adopted in Canada and New Zealand, for instance. Id.
294. Id.
295. Id. at 3.
offenders, traffic offenses committed by juveniles, protection from abuse in domestic violence, alcohol- and drug-related matters, conservatorship, guardianship, and mental health matters for juveniles and adults.\textsuperscript{296} Under this proposal, the family department would also have jurisdiction over criminal domestic violence, probate matters involving estates and trusts, and elder abuse by adult children.\textsuperscript{297}

The Kansas study illustrates, by use of the following example, the "worst case scenario" that could occur in the fragmented traditional family court:

Parents file for divorce. The judge assigned to the matter grants temporary custody of the couple's 15-year-old daughter Sue to the father with reasonable visitation by the mother. While living with her dad, Sue borrows his car and has an accident and is cited for failure to yield the right of way. Father is furious about the ticket, and the next day Sue tells her school counselor that he beat her. The counselor reports the incident to Social Services Agency, which investigates and files a child in need of care petition. The petition will be heard by another judge. Meanwhile, Sue has forgotten to pay her traffic ticket, and a third judge of the municipal court has issued a bench warrant for her.\textsuperscript{298}

The number of judges involved in the above-described scenario would be reduced to one under a UFC. The study emphasized the lack of funding within the fragmented traditional family court for adequate salaries and services, as well as the fact that there were no increases in personnel during the preceding 14 years.\textsuperscript{299} In identifying the need for long-term additional funding resources, the report highlighted the economic benefit derived for the children involved in a UFC, explaining that "while there is no directly proven cause and effect correlation between family court performance and children in poverty, it is worth noting that[,] of states with family courts in place for eight or more years, the majority have twenty percent fewer children in poverty than in states without family courts."\textsuperscript{300}

To date, Kansas has not enacted a state statute or court rule clearly articulating particular reasons for establishing a family department. Authority exists, however, to establish such a depart-

\textsuperscript{296} \textit{Id.}
\textsuperscript{297} \textit{Id. at} 4.
\textsuperscript{298} HURST \& KUHN, supra note 293, at 5.
\textsuperscript{299} \textit{Id. at} 6.
\textsuperscript{300} \textit{Id. at} 6.
ment on a district-by-district basis.\textsuperscript{301}

The Kansas Legislature attempted to establish a family court in the past. Legislation had been introduced but never enacted. The report encourages the Kansas courts to move forward with statewide court rules "on a permissive basis" and, "with the input of Kansas judges and lawyers," to draft supreme court-approved rules.\textsuperscript{302} Each district would have family departments under well-established and specific principles.\textsuperscript{303} In addition, the rules of court would contain a preamble reiterating the family court's purpose to maximize non-adversarial resolution of family conflicts and to establish an adequate standard to deliver services to children and families in need.\textsuperscript{304}

The Kansas report also addresses an oppositional statement raising concerns that a UFC would be in direct conflict with the progress of a Kansas unified judicial system. The report's response to this argument supports a Kansas UFC:

Implementation of a family department of the district court rather than a completely separate family court will not violate the spirit of court unification that occurred in Kansas in 1977. In fact, the authority to create specialized divisions of the district court is specifically authorized within KSA 20-438 and is inferred via State Supreme Court Administrative Order No. 3 executed by Chief Justice Harold Fatzer in November, 1976, seemingly in anticipation of impending court unification in January, 1977.\textsuperscript{305}

In summary, UFC jurisdiction would be "tightly focused by the Supreme Court" of Kansas to provide "the power basis or foundation for all types of family dispute cases excluding adult criminal, probate functions and elder abuse."\textsuperscript{306} The Kansas report concludes that a UFC is consistent with the aims and goals of a unified judicial system.

In addition to the Kansas experiment, various pilot projects have been launched across the United States in communities, including King County, Washington, to provide "consistent and uniform access to information as the foundation for coordination of services."\textsuperscript{307} The King County Council appropriated funds to link its

\begin{footnotes}
\footnote{301. \textit{Id.} at 10.}
\footnote{302. \textit{Id.}}
\footnote{303. \textsc{Hurst} \& \textsc{Kuhn}, supra note 293, at 11.}
\footnote{304. \textit{Id.} at 10.}
\footnote{305. \textit{Id.} at 11.}
\footnote{306. \textit{Id.} at 21.}
\footnote{307. \textsc{King County Bench/Bar Unified Family Court Project, Phase II}}
youth services department, deputy prosecuting attorney's office, department of judicial administration, and Superior Court. The department of judicial administration collected initial information about case overlap. These data indicate that forty-eight percent of family court cases filed in King County between 1990 and 1995 had directly overlapped with at least one other case within that five-year period. Dependency cases in King County occurred at a very high rate, followed by domestic violence and dissolution cases.

In addition to advocating judicial training, the report advised the King County court system to manage its cases aggressively with tracking systems. The courts and their administrators are urged to develop a method to identify and assign “high conflict” cases to a special track. This special tracking system would enable case managers to monitor such “high conflict” cases for the purpose of evaluations or alternative dispute resolution.

The Georgia court system is also exploring family and juvenile issues. In 1985, a task force created by Governor Joe Frank Harris issued a final report recommending that juvenile court function as a superior court division and that other domestic-related matters be addressed by said division. Other groups and task forces advocated for family court jurisdiction.

Judge Steven J. Messinger recognized creating an independent family court for Georgia would entail major constitutional and statutory revision. He asserted that creating an independent family court would serve to eliminate an otherwise-effective superior court system. Instead, Judge Messinger proposed a creative third option to expand juvenile courts’ subject matter jurisdiction.

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REPORT TO KING COUNTY SUPERIOR COURT AND KING COUNTY BAR ASSOCIATION, 6 (1996) [hereinafter King County].

308. Id. at 6.
309. Id. at 9.
310. Id.
311. Id. at 10.
312. King County, supra note 307, at 10.
313. Id.
314. Steven J. Messinger, On Moving Toward a Family Court in Georgia Without the Need for Constitutional Revision, 12 GA. S. U. L. REV. 667 (1996). Judge Messinger is a graduate of the Master's Program for Family and Juvenile Court Judges at University of Nevada at Reno.
315. Id. at 667-68.
316. Id. at 668.
317. Id. at 685.
318. Id.
through general legislation—and, therefore, without revision to the Georgia Constitution. Judge Messinger proposes reassigning cases to experienced juvenile court judges. The reassignment would correlate well with the focus of the current docket of juvenile court, as well as with issues involving the care, protection, and development of children. This docket, as proposed, would include cases involving legitimation, paternity, child support recovery and modification, change of custody or visitation, and adoption.

As is discussed above, New Jersey continues making significant strides in a unified judicial system area by legislative enactments. The New Jersey Constitution vested the supreme court with rules to manage the courts and support personnel, such as clerks and sheriffs. The assignment judges for each county, who are appointed by the Chief Justice of the New Jersey Supreme Court, are delegated authority to administer in their counties. Moreover, the state's administrative office centrally manages all case flow information and distributes this information to the assignment judge for her or his administrative use.

By statute effective December 30, 1983, New Jersey abolished its juvenile, domestic relations, family, and county district courts but allowed for specific exceptions. In 1983, New Jersey established a statewide UFC by constitutional revision and merged formerly separate juvenile and domestic relations courts into its highest trial level, the superior court. Each jurisdictional circuit includes a family division with a presiding judge and division administrator. The family division's jurisdiction encompasses child abuse and neglect, delinquency, domestic violence, "juvenile-family crisis" (status offense), support, custody, dissolution, paternity, and adoption.

319. Messinger, supra note 305, at 685.
320. Id.
321. Id.
322. Id.
324. Id.
325. Id.
326. Id.
327. N.J. STAT. ANN. § 2A:4-3a (West 1983).
328. H. Ted Rubin & Victor E. Flango, Court Coordination of Family Case, 1992 NATIONAL CENTER FOR STATE COURTS, STATE JUSTICE INSTITUTE 59 [hereinafter Court Coordination].
329. Id.
330. Id.
A new pilot project, which is funded by the State Justice Institute, is underway in Monmouth County, New Jersey; this program is designed to expand the UFC approach into a "holistic" view for handling family issues. Under this holistic approach, practitioners shift their practices from specialties to generality to avoid the barriers that specialization creates in family court. County regions combine newly-created management teams of professionals, such as a regional judge, supporting staff, team leader, and court coordinator. Each team handles a particular family's issues from "beginning to end, including interviewing, screening, recommending alternatives, investigating and monitoring." A sophisticated reorganization tool, the Family Automated Case Tracking System, coordinates case management efforts and provides vital information on a family's case history to each team.

One conclusion derived from this ground-breaking project in Monmouth County is that the one-judge, one-family concept may not be viable in practice. This project suffers from a lack of judicial resources and skilled personnel necessary to meet the needs of families. Adoption of a UFC approach would require additional judicial resources to reduce judicial burnout and to relieve the stress placed on a lone judge assigned to a community. Furthermore, regional teams would require specific training and abilities to be fully effective, including excellent communication and problem-solving skills.

Another pilot project, which was created in Deschutes County, Oregon, resulted in findings that differ from those of the Monmouth County project. Data from the Deschutes County project support a court-imposed UFC. Finding that greater family input encourages success, the Deschutes County project positively concluded that a UFC results in resource sharing, creative problem solving, and early intervention strategies for families. The Deschutes County UFC experience reported decreased duplication of services and increased effectiveness of treatment plans.

331. Id. at 60.
332. Id.
333. Court Coordination, supra note 319, at 60.
334. Id.
335. Id.
337. Id. at 346.
Other jurisdictions agree that courts need to address family problems in a preventive fashion "before [families] get into the judicial system." The South Carolina UFC demonstrates this direction. The South Carolina Legislature approved a statute creating a policy for all of the state's children who are in need of services, including those children with mental, social, emotional, physical, developmental, cultural, educational, and economic disadvantages or disabilities. This children's policy also extends to children who are dependent, neglected, abused, or exploited. The South Carolina policy defines the court's jurisdiction and its duties with regard to parent-child relationships and guardianships. Family court has exclusive jurisdiction over proceedings for divorce, mediation, adoption, birth certificate correction, contempt, grandparent visitation, and protection from domestic abuse.

A more recent revision to the South Carolina Code specifically details a legislative mandate that family court submit both an annual budget and a report to the legislature and executive branches for review:

To carry out this policy each agency, department, institution, committee, and commission which is concerned or responsible for children shall submit as a part of its annual budget request a listing of programs and services for children, the priority order of these programs and services in relation to other services, if any, that are provided by the agency, department, institution, committee, or commission, and a summary of the expenses incurred for the administration of its children's services and programs...[and] an annual report to the General Assembly shall include as part of the report a comprehensive statement of how its children's services and programs contributed to the implementation of this policy. Copies of all these budget requests and annual reports must be provided to the Joint Legislative Committee on Children and the Governor's Office by the agency, department, institution, committee, or commission.

In a spirit of cooperation and information sharing, all three governmental branches in South Carolina are participating in the formation and management of a UFC to ensure children's needs are met.

Judith S. Kaye, Chief Justice of New York's Court of Appeals, is

340. Id.
341. Id.
342. Id.
currently advocating for both a unified court system and a UFC to replace New York's "disunified court system." The Chief Justice indicated that, as the New York court system currently exists, "[y]ou can easily be in the wrong court and, in the case of family disputes, you can be in several courts." New York's need for a unified system results from the state's current nine-tier court system. Chief Justice Kaye proposes to condense nine courts into two—a supreme court and a district court—so that "the consuming public [may] have a simple, user-friendly, efficient court system."

On behalf of the state executive branch, New York Governor George Pataki endorses this proposal for restructuring the courts. He agrees these efforts would "modernize [the] antiquated system of trial courts." Although revising the state constitution and drafting necessary amendments will require significant energy, all three branches of New York state government are enthusiastic and cooperative about this "dramatic change."

Ohio is also exploring the implementation of a UFC. Recently, the National Center for Juvenile Justice, after a thorough review of Ohio's courts, prepared a comprehensive report recommending methods designed to improve coordination of Ohio's family law proceedings. The first major recommendation involves the cooperation of all three branches of government—the Supreme Court of Ohio, the Ohio General Assembly, and the Governor's Task Force. Implementing this recommendation would create a family code revision commission, whose duties would consist of drafting clear, simplified Ohio family law statutes.

An additional recommendation advises the Ohio Supreme Court


344. Id.

345. Id.

346. Id. The merger of the supreme court, court of claims, family court, county court, and surrogate court would result in the new all-purpose supreme court. The merger of two New York City courts, the criminal and civil courts, as well as city courts and district courts in Nassau and Suffolk counties, would result in a new tribunal known as district court. Id.


348. Id.

349. Id.


351. Id. at 127.

352. Id.
to assume a strong leadership role in support of local courts’ consolidating family law dockets. This leadership entails appointing standing committees with pilot site funding, staffing, and site selection powers. The supreme court will need to request additional resources from the Ohio Legislature—in particular, funding to expand court administration technology, a necessary ingredient for a UFC.\textsuperscript{353} Other recommendations include the court’s changes to the manner of scheduling cases so as to more efficiently manage and monitor family law dockets and to expand foster care networks to provide stable foster homes.\textsuperscript{354}

As noted above, in October, 1990, the Vermont Legislature created a family court having statewide jurisdiction. Vermont legislators envisioned a non-adversarial UFC in which the courts facilitate communication between the parties so that they can, with the help of a trained staff, resolve their own disputes.\textsuperscript{355} The Vermont Supreme Court appointed a committee chaired by an associate justice to further ensure the success of this alternative dispute resolution process.\textsuperscript{356} Families involved in the court system are encouraged to locate and use community resources.\textsuperscript{357} Vermont’s goals also include protecting children and adults from abuse and providing timely court decisions at all stages in the legal process.\textsuperscript{358}

Efficient and effective decision making is consistent with Vermont’s aim for continued UFC success, in part demonstrated by facilitating alternative non-adversarial methods for resolving family related matters. So necessary is such direction that the Vermont Supreme Court incorporated the following within the special experimental procedures:

\begin{quote}
[\textit{W}hether granting parties the ability to choose non-adversarial alternative procedures in divorce and parentage actions, and whether granting judges discretionary authority to take action to enable the parties or the court to make better informed decisions while reducing court costs and delay are effective methods to help the Family Court to accomplish its goals.]\textsuperscript{359}
\end{quote}

\begin{flushleft}
\textsuperscript{353} Id. at 128.
\textsuperscript{354} Id.
\textsuperscript{355} Lee Suskin, \textit{Developing a Model in Washington County for a Family Oriented Court: Proposed Experimental Rules for Family Proceedings}, (working draft, Mar. 21, 1994) [hereinafter \textit{Developing a Model}].
\textsuperscript{356} Id. at 1.
\textsuperscript{357} Id.
\textsuperscript{358} Id.
\textsuperscript{359} Id.
\end{flushleft}
In a more comprehensive statutory framework, the Vermont Legislature recently promulgated revised procedures to effectuate the statewide family court by authorizing the supreme court to "make and promulgate rules governing practice, procedure and administration in the family court." Under the system, family court employees became state employees subject to the supreme court's appointment, removal, and compensation powers. The court administrator is statutorily authorized to "increase the compensation of county clerks who are assigned additional duties and responsibilities in the family or district courts, consistent with the pay scale of district and superior court clerks."

The Vermont Legislature has vested family court with "all of the equitable and other powers of the superior court as to civil matters within its jurisdiction except as specifically limited by statute." The legislature also specifically permits this court of record to possess "the same power over its judgment, records and proceedings as that vested in the superior courts... and may exercise in connection therewith all the powers of courts of record at common law."

Family court is also vested with exclusive jurisdiction over requests to modify or enforce orders, including those issued by the district or superior courts. These orders involve an array of family issues, including desertion, support, paternity, married women's rights, support enforcement, annulment, divorce, grandparent visitation, uniform child custody, juvenile protective services, mental health, involuntary sterilization, abuse prevention (except for emergency relief, which is permitted by any district or superior judge), abuse and exploitation of minors, and emancipation of minors.

Vermont's statutory scheme for probate court permits guardianship and adoption matters to be transferred from probate court to family court. This statute also authorizes family court to transfer probate proceedings that have many parties, issues, and evidence so similar in nature to the parties, issues, and evidence in pending family court cases. Such a transfer must be intended to expedite

361. Id. at § 452(b) (1997).
362. Id. at § 453.
363. Id. at § 453(b).
364. Id. at § 454 (Supp. 1997).
issue resolution "or . . . [to] best serve the interests of justice." As regards appellate jurisdiction, the Vermont Supreme Court is vested with sole jurisdiction to decide family court appeals.

Other important matters addressed by Vermont's statute include the participation and availability of assistant judges, descriptions of their duties, and procedures relating to family court. Although one presiding judge and two assistant judges normally preside over family court, the statute includes a procedural framework addressing situations in which only one assistant judge is available. Jurisdiction of magistrates and findings of contempt are specifically authorized, as well as jurisdiction over child support matters. When a temporary order exists or is contemplated, family court may exercise jurisdiction if its proceeding is more expeditious than would be a proceeding before a magistrate.

This statute also entitles parties or legal entities to legal counsel.

Washington County, Vermont, has also experimented with rules regulating family proceedings. The local courts have promulgated rules to advance a non-adversarial divorce procedure by establishing new divorce formats, alternative procedures, pleadings, temporary orders, discovery, mediation, and a right to legal representation. These rules aim "to create a new model for people who wish to end their marriage in a manner which minimizes hostilities and which honors their wishes to meet the needs of their entire family[.]

By advancing these experimental rules, the courts recognize the destructive impact of anger on a family unit during a divorce. The courts benefit separated spouses and their children by making available counseling and treatment designed to manage the anger within the family. By managing this anger and working together, the parties in a divorce bring closure to the marital relationship, permitting them to restructure their relationship in a positive manner, which is of particular importance when the parental relationship will continue.

Litigants invoking procedures under these

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\begin{align*}
366. & \quad \text{Id. at § 455.} \\
367. & \quad \text{Id. at § 456.} \\
368. & \quad \text{Id.} \\
369. & \quad \text{Id. at § 461-63.} \\
370. & \quad \text{VT. STAT. ANN. tit. 4, § 464 (Supp. 1997).} \\
371. & \quad \text{Developing a Model, supra note 355.} \\
372. & \quad \text{Id. at 2-7.} \\
373. & \quad \text{Id. at 8.} \\
374. & \quad \text{Id.}
\end{align*}
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rules are provided incentives that are not available under a traditional, fragmented court still operating on the adversarial model: any "potential financial gain or enhanced parenting role [a party] may obtain through litigation is not worth the emotional pain that an adversarial divorce might inflict."  

VI. CONCLUSION AND RECOMMENDATIONS

According to professors, judges, lawyers, and government personnel comprising the Pennsylvania Futures Commission, trends that affecting justice for children and families include illegitimacy, surrogacy, poverty, abuse/violence, substance abuse, and effect of welfare. The commission found that addressing social, economic, and legal issues that affect the family requires society to "take a special interest in its children." This task force envisions that, in the near future, courts will incorporate the following into their systems: a separate family court having specially trained judges; judicial participation in organizing the system and selecting (and prescribing the role of) other professionals; alternative dispute resolution, facilitated by trained dispute resolution professionals; equitable, efficient, timely resolution of family disputes; and custody determinations by professionals that do not involve traditional litigation.

In 1995, the Pennsylvania Futures Commission proposed to "create a system that satisfies the public's belief that the system will protect its rights." The commission's intent is to accomplish consumer satisfaction within the justice system through education, training, and introduction of multiple levels of dispute resolution. The overall goal is to encourage alternative dispute resolution and to instill public trust for a multicultural fabric of society.

Public trust depends on the leaders of each governmental branch. Unfortunately, tensions exist among the branches, causing delay in monetary allocations required to achieve necessary goals.

375. Id.
377. Id. at 7.
378. Id. at 7.
379. Id.
380. Id. at 1.
for improved justice within the courts. The Pennsylvania Legislature is considering the Pennsylvania Supreme Court’s initial request of $15 million dollars in Governor Tom Ridge’s budget proposal. This sum covers administrative personnel salaries and expenses only.\footnote{382}

The total costs for a unified court are estimated at between $300 million and $1 billion.\footnote{383} Despite the Pennsylvania Supreme Court’s repeated rulings that the commonwealth is responsible for funding the courts, legislators remain leery as to the state court’s ability to best manage or “watchdog” over the system.\footnote{384} This sentiment is expressed by State Senator Jeffrey E. Piccola, among others; although he favors the $15 million request, Senator Piccola has concerns regarding the return the legislature will receive from the courts for “a billion dollar takeover of our county courts.”\footnote{385} He states, “if the state court would work with the Legislature, not order it around, and stop using its rule-making powers to invalidate state laws, lawmakers would be more amenable.”\footnote{386} Thus, the legislative branch is indicating that bargaining among the governmental branches would “achieve a reduction in tensions between the branches of government.”\footnote{387} Legislators believe that the plan for the unified court system, which is intended to be phased in by increments, needs to be explained further in terms of long-term projections and consequences.\footnote{388}

This expressed lack of certainty and confidence in the state court’s ability to manage a unified state court budget can be disappointing and mystifying to the judiciary. Today’s judges receive top-notch training through continuing education, as illustrated by Pennsylvania’s New Judges’ School for newly appointed and elected judges. Other well-structured and well-presented educational seminars and conferences are conducted by judges and professors for state trial judges with the support of the Pennsylvania Supreme Court.\footnote{389}

\footnote{382}{Peter DeCoursey, \textit{Takeover of Courts Inches Forward}, \textit{The Harrisburg Patriot}, Dec. 11, 1997, at B11.}
\footnote{383}{Id.}
\footnote{384}{Id.}
\footnote{385}{Id.}
\footnote{386}{Id.}
\footnote{387}{DeCoursey, supra note 382, at B11.}
\footnote{388}{Id.}
\footnote{389}{The Pennsylvania Supreme Court has hired former judge Thomas C. Raup as Consultant of Court-related Education. \textit{See} \textit{Directory of Pennsylvania Conference of State Trial Judges} 1997-1998, at 10.}
Pennsylvania is not alone when it recognizes that court management is a necessary component for its justice system, providing professional, reliable, and consistent assistance to court-related procedures and work. Given the reductions in federal funding, each of Pennsylvania's county courts has become even more vigilant and conscious of budgetary expenditures for the sake of local taxpayers.

Judges in local courts are working with their local executive governmental leaders to create resource management teams to recommend appropriate but affordable juvenile placements. Local courts, such as the Erie courts under the leadership of President Judge John A. Bozza, have collaborated with other entities—including the Erie city school district; the office of children and youth, juvenile probation; and Perseus House juvenile treatment center—to create a community-based treatment program that enables juveniles to remain in the community while they are receiving treatment. This strategy has proven to be economically wise and cost effective for the entire community of stakeholders.

With county courts striving for and achieving efficiency in their budgets, "courts are more capable of running their own affairs—sometimes better than the governments that 'host' them." As a result, courts are becoming increasingly independent as a "third branch of government." Some may wonder whether this independence is the real reason for the legislature's concern over what they "get" from budgeting this new, unified court system? Perhaps this concerns also stems from the uncertainty of a long-term investment for the future of a unified judicial system, but the best predictor of the future is past experience; the legislature should look to the pilot programs scattered throughout the states that

390. This professionalism of court management, as well as its value to the efficient work of court systems, is illustrated by the volumes of books and courses available currently. In fact, the American Bar Association has established standards relating to court organization and administration. One such standard emphasizes the need for an administrative office of the courts, with appropriate assistance from outside experts, to utilize a cost-benefit analysis approach regarding technological innovation. For instance, one of the steps in these standards suggests the administrative officer inventory and evaluate alternative approaches and technology. This is accomplished by analyzing "suitability, strengths and weaknesses, estimated value of anticipated benefit (both short- and long-term), such as greater efficiency and effectiveness in case processing and disposition and improved public service. ABA Judicial Administrative Division, STANDARDS RELATING TO COURT ORGANIZATION, 133-34 (1990 ed.).


392. Id.
have implemented successful UFCs. A unified judicial system incorporating a statewide UFC would represent progress in a true economic fashion.

Although the future of the courts is uncertain, one gains an enhanced sense of the court's ability to deal with, understand, and manage its own future through tools such as trends, scenarios, visions, and strategies. The courts, especially those in Pennsylvania, have examined this dilemma, as is evidenced by the Pennsylvania's Futures Commission's planning for the future. "One judge—one family" is a vehicle to assure the legislature of the well-targeted, goal-oriented direction of the courts. A statutory proposal for a statewide UFC empowers the legislature to take ownership of the system's eventual success.

When a statewide UFC system has been implemented, the legislature will "get something," so to speak, from their multimillion dollar investment and the courts, in turn, will have proven their ability to "give something." The legislature and the courts both act responsibly by creating a UFC, and the legislature retains control of a substantial portion of necessary funding of the general unified judicial system budget. In the future, the legislature can take credit for achieving a more efficient, yet cost-efficient, unified court structure within each legislative district.

The legislature can revitalize public trust by adopting a statutory UFC system to establish and maintain public confidence in all three governmental branches. The judiciary's leadership in improving the family court system would actually realize the "independence, power and finances that the tripartite theory of American government implies." This team approach to governing would establish an excellent example for the family to model. Moreover, as shown by efforts to implement a UFC, the courts are even better prepared to maintain and justify public confidence. By implementing a UFC, the courts create a long-range plan for society's most basic unit—the family.

Pennsylvania's legislature should draft and approve statutory language similar to that of Vermont's UFC statute. This legislative action will promote cooperation between the branches, as demonstrated by the New York Legislature's support for the New York

393. Id. at 5.
394. Id.
395. Id. at 11.
396. Bezold, supra note 384, at 11. Id.
court system's efforts to unify that state's courts. A UFC will provide efficient and effective services to all citizens, especially families and youth. Pennsylvania has already implemented programs such as balanced restorative justice, resource management teams, and alternative dispute resolution, each of which is consistent with a UFC for Pennsylvania.

The legislature may be hesitant to create a UFC under the complete control of the courts. However, a UFC statute will provide the accountability and competency the legislature requires to be assured of the many economic benefits to be derived for their constituents. Just as litigants in family court gain incentives under UFC systems, so, too, do legislators.

A statutory proposal for a statewide UFC will fulfill the needs of Pennsylvania families while empowering the branches of government with opportunities to succeed in unifying a fragmented family court system, as well as properly placing the UFC's management within the purview of the Pennsylvania Supreme Court. Under the umbrella of a unified judicial system, the Pennsylvania Supreme Court has diligently and patiently attempted to prod the legislature to meet its constitutional court-funding mandate. A statewide UFC will finally fulfill this mandate.

Trial court judges need to promote implementing the concept of a statewide UFC, because judges are reform initiators and the greatest resource for improving the courts.\(^3\) Incentives exist to change fragmented family, orphans', and juvenile courts into a statewide UFC. The rewards of consistency, efficiency, and effectiveness will be substantial for courts and for the community of consumers they serve. A UFC is one response to the issue of how to implement a unified court generally. It makes good "economic" sense.

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