



March 2009

Pending court ADR legislation leads the news this month. The Uniform Mediation Act has been introduced in the Massachusetts and Hawaii legislatures, and bills establishing foreclosure mediation programs have been proposed in Florida and Nevada. Legislators in New York and New Hampshire are both considering bills to expand their existing court ADR systems. In other news, court administrators in Minnesota report a successful launch of a new appellate family mediation program. The New Research section features a review of dependency mediation research. Finally, the CourtADR.org Tip of the Month features RSI's Court ADR Effectiveness resource guide.

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Court ADR News

UMA Introduced in Hawaii, Massachusetts Legislatures

The legislatures in Hawaii and Massachusetts are both considering adoption of the Uniform Mediation Act. The UMA establishes a privilege for communication in mediation and requirements for addressing conflicts of interest. Drafted by the National Conference of Commissioners on Uniform State Laws and the ABA Section of Dispute Resolution in 2001, it has been adopted by 10 other states – Idaho, Illinois, Iowa, Nebraska, New Jersey, Ohio, South Dakota, Utah, Vermont and Washington – and Washington, D.C. The bill proposing adoption of the UMA in Massachusetts is being considered by the House of Representatives; in Hawaii, the UMA bill has been introduced in the House of Representatives and the Senate.

For the full text of the Hawaii bill, click [here](#). For the full text of the Massachusetts bill, click [here](#).



Foreclosure Mediation Bills Proposed in Florida, Nevada

The legislatures in Florida and Nevada are considering legislation that would give homeowners facing foreclosure the option of mediation to modify the terms of their loans. The Nevada bill, currently under consideration in the Assembly, requires lenders to notify homeowners of their right to mediate. If mediation is requested, the lender and homeowner, or their representatives, are required to attend. If the lender or a representative does not attend mediation, the court may issue an order requiring loan modification.

The Florida bill, titled “The Foreclosure Bill of Rights,” applies the state’s existing court-ordered mediation rules to foreclosure cases. These rules require the court to refer a case to mediation if it is requested by a party. The bill is currently under consideration in the House of Representatives.

For the full text of the Nevada bill, click [here](#). For an article about the bill from the *Reno Gazette-Journal*, click [here](#). For the full text of the Florida bill, click [here](#).



New Hampshire Legislature Considers Pre-Suit Court ADR Bill

The New Hampshire Senate is considering a bill that would expand the authority of the state court system’s Office of Mediation and Arbitration to include pre-suit mediation and arbitration services. The bill was requested by the Supreme Court. According to notes included in the bill, the judicial branch expects to charge parties \$100 per mediation case and \$250 per arbitration case. The bill was introduced in the Senate in January.

To read the full text of the bill, click [here](#).



Land Use Mediation Bill Proposed in New York Legislature

A bill in the New York State Assembly proposes the creation of a mediation program for disputes between landowners and government agencies regulating land use. The program would be run by the state’s existing court alternative dispute resolution service, which would be responsible for providing mediators knowledgeable in land use and environmental law. The bill has been previously introduced during the 2005-06 and 2007-08 legislative sessions.

For the full text and legislative history of the bill, click [here](#).



Family Mediation Program Underway in Minnesota Court of Appeals

Court administrators at the Minnesota Court of Appeals report that a new family mediation pilot program launched in September 2008 is already achieving some of its original goals. According to the *Twin Cities Daily Planet*, half of the first 20 cases to go through mediation reached settlements, saving the cost of further litigation. The voluntary program handles divorce, custody, child and spousal support, and parenting disputes. Cases are mediated by volunteer mediators.

For the *Twin Cities Daily Planet* article, click [here](#). For more information about the program from the Minnesota Supreme Court web site, click [here](#).

New Research

What We Know Now: Findings from Dependency Mediation Research

Since the first child protection mediation program was established in Los Angeles in 1983, hundreds of new programs have been created, and dozens of studies of them have been undertaken. In “What We Know Now: Findings from Dependency Mediation Research” (*Family Court Review*, January 2009), Nancy Thoennes presents the current state of knowledge about child protection mediation.

The studies have found that mediation programs have difficulty getting referrals, but that when cases do end up in mediation, it is largely successful in leading to agreement. Mediation also succeeds in getting parents more engaged in the parenting plan, in engaging the extended family, and in enhancing communication among the participants. There is some initial evidence that parental compliance with parenting plans is increased through mediation, but further research is needed to confirm this.

On CourtADR.org

Tip of the Month: Court ADR Effectiveness

RSI's [Court ADR Effectiveness](#) resource guide highlights more than two dozen evaluations of court ADR programs from across the country. The evaluations were chosen based on their high-quality design and analysis. They cover mediation, arbitration and restorative justice programs, and employ a wide variety of variables to analyze the programs, from satisfaction and cost to gender and ethnicity. Court ADR professionals can use this section not only to research what has been found to work well in court ADR, but also to gain ideas for conducting new evaluations.

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