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COURT ADR CONNECTION

The eNewsletter of Resolution Systems Institute

March 2011

This month's newsletter covers news about [collaborative law in Florida](#), [restorative justice legislation in Colorado](#), and [mediation of guardianship disputes in Nebraska](#). The New Research section features a [study](#) by the Michigan Office of Dispute Resolution, and a new CourtADR.org [research guide](#) for legal aid professionals is also highlighted.

Have you heard about new court ADR programs, legislation, research or other news? [Let us know!](#)

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Court ADR News

Florida Bar Proposes Collaborative Law Rule

The Florida Bar Association recommended that the Florida Supreme Court adopt a new rule governing the collaborative law process for family disputes. The new rule, which was part of a larger set of recommended family law rule amendments the Bar submitted in January, sets requirements for collaborative law agreements between parties. The parties may file notice with the court that they have entered into a collaborative law agreement and may jointly request that the court suspend their case proceedings for 90 days.

To read the full rule, click [here](#) (Appendix B-4).



Colorado Legislature Considers Restorative Justice Bill

The Colorado legislature is currently considering a bill that would amend the state's [Dispute Resolution Act](#) to authorize courts to refer civil cases to "restorative justice practice." The bill defines restorative justice practice as voluntary facilitated meetings between the parties "that provide the opportunity for any voluntary acknowledgement of responsibility and a discussion concerning the repair of any harm, damage or loss." If a case is referred before a determination of responsibility in the case has been made, the parties must provide written, informed consent before participating in the process. The bill also includes a provision that any "statement, affirmation, gesture or conduct that expresses fault, apology, sympathy, commiseration, condolence, compassion or a general sense of benevolence" made during mediation is confidential and inadmissible in court or arbitration proceeding.

The bill has been passed by the Colorado Senate, and is currently under consideration in the House. Click [here](#) to read the full text of the bill.



Nebraska Adopts Mediation for Guardianship Disputes

Nebraska amended two statutes in February to authorize courts to refer contested guardianship and conservatorship proceedings to mediation. The [current statute](#) that gives courts the power to send cases to mediation was changed to include guardianship and conservatorship cases, and the state's [Dispute Resolution Act](#) was amended to authorize dispute resolution centers to mediate these cases.

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

New Research

Mediation After Case Evaluation: A Caseflow Study of Mediating Cases Evaluated Under \$25,000

In an attempt to assist litigants in reaching earlier resolution of their disputes, three Michigan courts instituted a pilot mediation program for civil cases that had gone through a case evaluation. The evaluation process involves a panel of attorneys that hears a brief presentation from both sides and renders an award. To be eligible for the mediation program, a case must have involved an award of less than \$25,000 that was rejected by one or more parties. The state Office of Dispute Resolution recently published an [evaluation](#) of the pilot program.

Analyzing 31 cases from each court, the evaluation found that 40% of referred cases settled prior to mediation. Fifty-five percent of cases were mediated and, of those, 71% reached settlements. Cases that settled prior to or at mediation had an average disposition time of 78 days after the mediation referral. The evaluation also found that cases were more likely to settle when motions for summary disposition were decided prior to mediation, and that the scheduling of early trial dates had no effect on settlement. The author suggested future pilot projects to determine if holding mediation prior to case evaluation or postponing the scheduling of trial dates until after dispute resolution processes would decrease disposition times.

On CourtADR.org

New: Resources for Legal Aid Professionals

RSI has developed a new resource for legal aid professionals interested in learning more about ADR to help their clients. The [Legal Aid Professionals Special Topics Page](#) features resources covering a variety of topics, from how to create new or partner with existing mediation programs to how to educate clients about mediation and other ADR processes.

From *Just Court ADR* Blog

Foreclosure Mediation goes to Washington: U.S. Senate Committee on the Judiciary Hears Testimony on Foreclosure Mediation

"In the face of a [tremendous snow storm](#), another storm received air time this morning. The housing crisis has resulted 1.2 million foreclosed homes, with promise of a [million more during 2011](#), the anticipated peak year. So far, [27 states or localities](#) have created some form of foreclosure mediation program to deal with the storm, with [Washington State](#) close behind. The federal government's voice has recently risen above the squall." Click [here](#) to read the rest of this post by Heather Scheiwe Kulp.



Youth Diversion Programs Receive National Support

"At the American Bar Association's Mid-Year meeting, the delegates adopted [Resolution 107B](#), which urges governments to support the creation of programs that divert alleged juvenile offenders into alternative dispute resolution systems. These systems, including [peer courts](#), [victim-offender](#) mediation, [restorative justice](#) conferences, [truancy mediation](#), and [community mentoring](#) /service, not only work to keep youth out of jails, but can also prevent juvenile records, which impact future educational and employment opportunities, from developing." Click [here](#) to read the rest of this post by Heather Scheiwe Kulp.

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