

Transfer Juvenile Jurisdiction

Pamela Q. Harris
ICM Phase III Project

EXECUTIVE SUMMARY

The Maryland judiciary created family divisions within its courts of general jurisdiction to promote a holistic approach for families in crisis by creating opportunities for reconciliation or, in the alternative, the resolution of conflicts in the least legally adversarial way. The goal was to provide the most effective case management principles and practical alternatives for the constructive resolution of issues with an emphasis on the best interests of the children.

The statewide established family divisions were to deal exclusively with matters affecting the family unit and provide the services necessary to improve the lives of children and adult family members. The judiciary's commitment further was evidenced by the Rule adopted by the Court of Appeals establishing a family division in Maryland's five largest jurisdictions.

Maryland's transition from a structure based upon a legally adversarial system to a holistic model focused on family problems initiated a statewide cultural transformation in how the judiciary manages its domestic cases. Within that context, the Circuit Court for Montgomery County, in particular, faces a unique issue in its implementation of a family division: the need for juvenile matters to be integrated fully into the family division which will require a transfer of jurisdiction from the District Court to the Circuit Court for Montgomery County, Maryland. There are numerous cultural, legal, legislative, fiscal and administrative challenges confronting the Court to effect such a significant change in the local legal culture.

The analysis and recommendations contained in this report will represent the basis for developing a comprehensive plan and requisite strategies to implement the transfer of juvenile jurisdiction in Montgomery County. In addition, this analysis will establish a set of general variables that should be considered in all jurisdictional transfer decisions relating to court administration.

In 1998, a Maryland Rule was established providing for a family division "[i]n each county having more than seven resident judges of the circuit court authorized by law, there shall be a family division in the circuit court." When adopting this rule, Montgomery County Circuit Court was excluded from incorporating juvenile jurisdiction in the newly founded family division in view of the fact that juvenile jurisdiction historically resided with the lower court.

Following adoption of the new family rule, statewide funding was sought to implement the family divisions. The State Budget and Taxation Committee, together with the House Appropriations Committee, incorporated budget language requiring that the Chief Judge of the State Judiciary prepare a report responding to concerns of the legislature, including but not limited to "examining the feasibility of transferring juvenile causes from the District Court in Montgomery County to the Circuit

Court".

The present state of the law in Maryland simply does not contemplate or permit a District Court judge being "transferred" to the circuit court for the purposes of presiding in juvenile court, nor did the new family rule intend to affect the jurisdiction of the respective courts under the constitutional and legislative provisions. If, however, juvenile jurisdiction is transferred to the Circuit Court, a constitutional amendment will not be necessary. The applicable Maryland Constitutional provision, provides: "...that in Montgomery County and other counties and the City of Baltimore, the [District] Court may have such jurisdiction over juvenile causes as is provided by law." The constitutional language "by law" denotes that juvenile jurisdiction in all Maryland courts can be dictated by statutory enactment by the legislature.

Essential to the transfer would be the creation of additional judicial positions through legislative means for the Circuit Court to assume juvenile jurisdiction. Any "extra" judicial positions at the District Court level could be utilized on a statewide basis or the Governor could appoint the judges for the Circuit Court vacancies from the District Court.

Certain other legislative mandates are needed to achieve the steps necessary for implementing a transfer of jurisdiction. Pursuant to the Maryland Courts & Judicial Proceedings Article, "Juvenile Court" as presently defined in Montgomery County represents "the District Court sitting as the juvenile court and following the applicable rules of the circuit court." Also, current law provides that "in Montgomery County the assignment [of judges to sit in juvenile court] shall be made by the Chief Judge of the District Court, subject to the approval of the Chief Judge of the Court of Appeals. Legislation would be required to amend the language of the aforementioned provisions. Concurrent with the enactment of new legislation, also necessary is the adoption of a Maryland Rule which provides juvenile matters in Montgomery County be held exclusively within Circuit Court jurisdiction.

It is evident that without construction of a new facility, or possible build-out of leased space, the transfer cannot occur. A consultant's report indicated that an additional 101,530 net usable square feet would be necessary for a fully functioning Circuit Court by 2015, excluding a family "court" scenario. When including a family court/division concept into the Circuit Court space analysis, two alternatives were established considering the consolidation, both essentially requiring square foot estimates between 30,000 and 75,000 net usable square feet. This space analysis did not consider the amalgamation of any juvenile justice service agencies outside the parameter of the courts and this could be essential when contemplating an efficient, fully functioning juvenile division. Considering the structural building needs of the Circuit Court, even without juvenile jurisdiction the economic impacts are great. Construction is required for Judicial Center expansion regardless of juvenile jurisdiction transfer, consequently, this is the appropriate time to seize the opportunity and comprehensively plan for a facility that encompasses Circuit Court expansion, Juvenile jurisdiction transfer as well as all the ancillary services for juvenile assessment.

When considering architectural and engineering services, site development, administrative costs, escalation factors, and contingency fees, new construction costs in the Washington-Metropolitan area presently are estimated a \$330-\$400 per square foot. The preliminary cost estimate, however, for Judicial Center construction is premature considering the insufficient space needs analysis at this time.

Inherent in circuit court operations is the effective collaboration among the court and county agencies. Financial support from the County Council has been unwavering when requested to fund circuit court initiatives, such as differentiated case management and technological programs. The District Court, being a wholly state funded organization, must compete with each statewide initiative brought before the General Assembly. Consequently, funds for neither juvenile programs, nor technology initiatives

have materialized. Advocates promoting the transfer believe that this integration will allow for a shared commitment to youth in the community.

State funding for three circuit court judgeships would be necessary to maintain the juvenile workload at the present level. This would require additional State funding estimated at \$527,670 for costs associated with the FY00 judicial salary and fringe benefit package. Simultaneously, up to three District Court judgeship positions would remain at the District Court level if the Governor did not appoint a judge from that bench to the circuit court level, which could effectuate an overage of \$494,250.

Funding for three judges' secretarial and law clerk positions would be necessary at the local level. Funding necessary for these positions is currently estimated at \$470,700 for costs associated with the current judicial salary and fringe benefits package.

Funding for 7.2 Sheriff Deputy positions would be necessary at the local level. Total funding necessary for these positions is estimated at \$400,125 for salary, fringe benefit and uniform costs.

The Circuit Court utilizes a centralized digital recording system for the official court record in lieu of court reporters. The computer equipment necessary to record the court proceedings in each courtroom is estimated at \$50,000 per courtroom. This is a one-time expenditure, currently on the desk top modernization plan for replacement approximately every three years. Additional one-time operational costs for initial set-up of each chambers would be necessary and is estimated at \$35,000 per chambers.

INITIAL BUDGETARY COSTS		
	STATE	LOCAL
DISRICT COURT JUDGES' SALARIES*	\$494,240	
CIRCUIT COURT JUDGES' SALARIES	\$527,670	
DISTRICT COURT JUVENILE DIVISION	\$303,000	
SECRETRARY		\$205,770
LAW CLERK		\$159,920
SET-UP OPERATIONAL COSTS		\$105,000
EQUIPMENT COSTS		\$150,000
ANNUAL OPERATIONAL COSTS		\$15,000
SHERIFF'S DEPUTIES		\$400,125
SUBTOTAL	\$1,324,910	\$1,035,815
ESTIMATED CAPITAL COSTS** Based upon 155,000 gross sq. ft. @ \$350.00 and no land acquisition		\$54,250,000
TOTAL	\$1,324,910	\$55,285,815

If political and judicial leaders look favorably upon the transfer of juvenile jurisdiction, a number of transition teams should be established to secure a smooth conversion. It is anticipated here that the Administrative Judge of the Circuit Court and other judicial and administrative leaders would participate on each team. Bar leaders, local and State legislators, as well as clerical staff would serve selected teams:

- **Transition Team** - should be established to formulate and develop an action plan to effectively establish an organizational philosophy for consolidation. This team would be address the present goals and objectives of the Family Division and establish one comprehensive strategy incorporating juvenile matters.
- **Caseflow Team** - should be established to evaluate and improve statistical collection methodologies and gain knowledge of statutory regulations that define case disposition standards in the juvenile arena. Recommendations will incorporate juvenile tracking mechanisms into the Family Division Differentiated Case Management Plan.
- **Human Resources Consolidation Team** - should be established to create lines of communication, computer training, and procedures for circuit and District Court employees during transition period.
- **Educational Team** - should be established to develop and conduct a self-assessment survey based upon training needs of the juvenile and family judges, the formulation of an educational team to train judges in corresponding family law and juvenile matters would be necessary. Following the development of caseflow management techniques by the Case Management Team, ongoing judicial training should be established for the judiciary, as continuous evaluation is critical to successful case management procedures.
- **Service Team** - should be established to develop an inventory of programs and analyze gaps or disparities between services offered at the local and state levels in the juvenile and family areas. Develop constructive relationships between Department of Juvenile Justice, Department of Health and Human Services, Montgomery County Police and other public and private service providers to maximize the understanding of service programs. Establish cohesive guidelines for the use of available resources and possible initiatives for new programs.
- **Legislative/Legal Committee** - Should be established to address the statutory provisions needed for the transfer of juvenile jurisdiction to the Circuit Court as well as the judgeship requirements associated with the transfer.

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Knowledge Information Services
National Center for State Courts
300 Newport Avenue
Williamsburg, VA 23185
Phone: (800) 616-6164

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