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JOSEPH A. SMYTH

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CALVIN S. DRAYER, JR.

MONTGOMERY COUNTY  
THIRTY-EIGHTH JUDICIAL DISTRICT  
NORRISTOWN, PENNSYLVANIA  
19404

SENIOR JUDGES

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WILLIAM W. VOGEL  
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HORACE A. DAVENPORT  
LAWRENCE A. BROWN

December 3, 1999

Representative Lita I. Cohen  
145 A East Wing  
Main Capitol Building  
House of Representatives  
House Box 202020  
Harrisburg, PA 17120-2020

**RE: House Bills 1976 and 1977**

Dear Representative Cohen:

On December 3, 1999, I had the pleasure of speaking to Karen L. Dalton, counsel to the House Judiciary Committee, who wrote to President Judge Joseph A. Smyth on November 18, 1999, inviting input from the Court of Common Pleas of Montgomery County with reference to the above-captioned Bills. In that regard, President Judge Smyth has requested that I, as Administrative Judge of Family Court, send this correspondence to you, and we ask that it be made a part of the Task Force's official record.

We feel it is important for the Task Force to know that we are extremely pleased with the present system established in Montgomery County pertaining to Family Court. We have grave concerns that the proposed legislation will destroy what we have worked so hard to accomplish. In this letter, we shall explain our system to the Task Force, so that it may get an understanding of our process. Also, we shall offer some additional comments that may be helpful to the Task Force.

In Montgomery County, we have five judges assigned to Family Court and, importantly, we have a one judge/one family system. This means that when an initial pleading is filed and gets a number, a "designated family court judge" is assigned to the case and that judge only will hear all matters pertaining to that family. This provides consistency to the families and prevents judge shopping.

We have an excellent family masters program in the areas of equitable distribution (which includes alimony and counsel fees), support (which includes child support, spousal support, and alimony pendente lite), custody, and discovery matters. Our masters conduct non-record hearings, and we provide direct access to a family court judge in a *de novo* hearing, should a litigant be dissatisfied with the mater's recommendation. The system works beautifully, as the statistics demonstrate, in that settlement rates are high and judges have an opportunity to see and hear parties and witnesses, which the litigants truly appreciate. Here are our statistics for 1998 (and we anticipate 1999 to be another banner year): The equitable distribution masters settled 97.71% of their cases. The support masters, (known as support conference officers) settled 81% of their cases. The custody conciliator settled 54% of his cases. It, therefore, can be said, when combining these categories of cases, there is a 77.57% total settlement rate. I think you will agree with me that that is quite remarkable.

Parents who do not settle their child custody cases before the custody conciliator are required to go to a parenting seminar and our newly promulgated mediation program. If these processes fail to bring about settlement, our designated judge at a Short List Proceeding (a pretrial conference, though formalized) will appoint a mutually selected behavioral expert to perform a custody evaluation, which usually results in a settlement.

It is *essential* to bear in mind that most families do *not* participate in all of the above areas at once. Indeed, with most families, there is only one dispute. For example, a married couple with children may have no problem with support or equitable distribution but will go before the custody conciliator for custody, and of them, 54% settle. A childless married couple, having comparable incomes, will not quarrel over spousal support and will only go to equitable distribution, where they have a 97.71% chance of settling. A sizeable amount of child custody cases involve non-married people and they, therefore, certainly cannot litigate custody or divorce related issues, such as alimony pendente lite or equitable distribution. Accordingly, parties poke into our system for certain issues that are tailored for their status and needs and, when they do so, we are ready to provide to them specialized masters, with high settlement rates, and five designated judges, for a hands on hearing.

We do not have a backlog in Family Court, and in 1998, Family Court disposed of a record 6,395 cases. We are extremely satisfied with the settlement rates of our family masters, and we make available our judges in *de novo* hearings for those minority of cases that do not settle. Adoption of the procedures set forth in House Bill 1977, in our opinion, will log-jam our well-run system, create backlog, and deprive families access to judges. The system in Montgomery County is efficient, responsible, and responsive to the needs of families and children and ought not to change.

With respect to any substantive changes to domestic relations law, Roger A. Madigan, Chair of the Pennsylvania Joint State Government, has presented the reports of its Advisory Committee on Domestic Relations Law to the members of the General Assembly this year, covering extensive amendments in all areas of Divorce and Custody Law. It is anticipated that that legislative process will continue in the year 2000 on those reports with full participation of all those interested in substantive family law reform.

Thank you very much for inviting us to participate in your process.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Emanuel A. Bertin', with a long horizontal line extending to the right from the end of the signature.

Emanuel A. Bertin

EAB:psg

CC: President Judge Joseph A. Smyth  
Michael R. Kehs, Esquire, Montgomery County Court Administrator  
Karen L. Dalton, Counsel, House Judiciary Committee  
David L. Hostetter, Counsel, Pennsylvania Joint State Government Commission