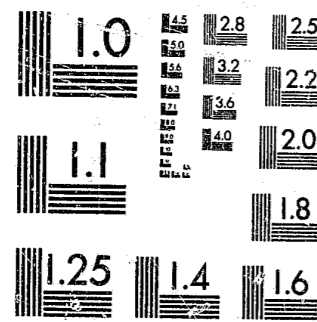


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# POLICY BRIEFS

Action Guides for Legislators and Government Executives

Based on research and program development projects of the National Institute of Justice

## Neighborhood Justice Centers

### THE PROBLEM

Minor criminal and civil court actions often stem from conflicts within family and neighborhood groups, or between merchants and consumers, landlords and tenants, and other parties with ongoing relationships. In many cases, these actions are only the visible symbol of a long history of reciprocal complaints.

In the absence of adequate alternatives, the court is expected to resolve these matters. Yet many disputes require compromises not readily achieved by the winner-takes-all approach of adjudication. Extensive court delays, high costs and inconvenience, and high dismissal rates are further barriers to effective case resolution. Moreover, formal processing of minor disputes clearly adds to the burden of the court, reducing the resources available to handle the remaining civil and criminal matters.

### CONTENTS OF THIS BRIEF

This Brief describes programs for resolving minor disputes without arrest or formal court action. Using conciliation, mediation, or arbitration techniques, these projects are designed to provide citizens with ready access to a more rapid, effective process for dealing with interpersonal conflicts, without contributing to the courts' growing burden of minor cases.

- Sections I-III provide further information on the key features and benefits of the Neighborhood Justice Center approach.
- Section IV outlines the executive and legislative actions required to support this approach.
- Section V includes sample legislation and lists sources of additional information and assistance.

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## NATIONAL INSTITUTE OF JUSTICE

Harry M. Bratt, *Acting Director*

Daniel McGillis, *Author*

Mary Ann Beck, *Government Project Monitor*

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### I. INTRODUCTION

Historically, minor disputes were often resolved with the assistance of the extended family, the church, local leaders and other community groups. In today's highly urbanized, mobile America, the influence of these groups has waned, and the courts are more frequently called upon to fill this role. Yet there are a number of barriers to the effective use of adjudication in many civil and criminal cases:

- **Extensive Delays** – Some civil cases often take over 4 years to process in cities such as Boston, Chicago, New York (the Bronx) and Philadelphia. Many criminal cases also involve lengthy delays.<sup>1</sup>
- **Limited Access** – The high costs of legal assistance, wages lost while attending court sessions and the inconveniences and costs of court hearings are prohibitive to many citizens.
- **High Dismissal Rates** – A 1971 study conducted in New York City's courts revealed that over 40 percent of felony arrests were dismissed. In more than half of all felony arrests for crimes against the person, the victim and defendant had a prior relationship. The vast majority of these cases ended in dismissal because the complainant failed to cooperate in the prosecution. Once the complainants had cooled off, they were simply not interested in pursuing legal action.<sup>2</sup>
- **Ineffective Procedure** – Many matters involve reciprocal offenses by the parties to a dispute or raise complex issues that require concessions by both sides. Yet the rules of evidence in adjudicatory proceedings require the court to focus on the specific incident of record rather than the underlying conflicts between the disputants.

#### Support for Alternative Dispute Resolution Mechanisms

In 1976, the American Bar Association, the Judicial Conference of the United States and the Conference of Chief Justices co-sponsored a national conference to investigate the major problems of the courts. Following the conference, the ABA published a **Report of the Pound Conference Follow-up Task Force** which recommended major court reforms, including the development of alternatives for the resolution of minor disputes.<sup>3</sup> This report's influence can be seen in:

- the passage of recent Federal legislation (Public Law 96-190) designed by Senator Kennedy and others to support nationwide experiments with improved methods of dispute processing;<sup>4</sup> (a copy of the law is appended)
- the current work of the ABA Committee on the Resolution of Minor Disputes;<sup>5</sup>
- research and program development efforts of the National Institute of Justice; and
- support for "Neighborhood Justice Centers" from the Justice Department's Office for Improvements in the Administration of Justice.

#### The Neighborhood Justice Concept

Neighborhood Justice Centers were defined by the ABA Task Force as "facilities designed to make available a variety of methods of processing disputes, including arbitration, mediation, and referral to small claims courts as well as referral to courts of general jurisdiction." A number of projects developed in recent years are similar in many respects to this broad definition of Neighborhood Justice Centers. These projects provide forums for resolving minor disputes and offer an alternative

to arrest or formal court action. In addition to arbitration, mediation and referral to the courts, the projects often employ social work staff, make referrals to social service agencies, and conduct fact-finding and related functions.

#### Development of Initial Projects

The forebears of today's neighborhood justice centers were developed by prosecutors and courts in response to clear needs for improved processing of minor criminal matters. The Philadelphia Municipal Court Arbitration Tribunal, for example, evolved from a project established in 1969 through the joint efforts of the American Arbitration Association, the Philadelphia District Attorney, and the Municipal Court. The project provides disputants with the option of binding arbitration for minor criminal matters. Shortly after the Philadelphia project began operation, a somewhat similar project was established in Columbus, Ohio by the City Attorney's Office. The Columbus project provides mediation rather than arbitration for minor disputes.

Both Philadelphia and Columbus received LEAA funding, and the Columbus program was designated an Exemplary Project by a board of LEAA officials in 1974. Extensive documentation of the Columbus experience was prepared, and the National Institute of LEAA sponsored nationwide seminars to encourage replication of the concept. Projects modeled after Columbus were subsequently developed in several jurisdictions, including other Ohio communities and Miami, Florida. The Miami project, in turn, has stimulated the development of centers in nine other Florida cities. Additional pioneering efforts include the American Arbitration Association's Community Dispute Services Project in Rochester, N.Y.; the Institute for Mediation and Conflict Resolution's Dispute Center in Manhattan; the Boston Urban Court Project; and the San Francisco Community Board Program.

Since 1974, roughly 100 projects for the mediation and/or arbitration of minor civil and criminal disputes have been developed in approximately 28 states. Three of these programs were initiated in 1978 under Department of Justice sponsorship—in Atlanta, Georgia; Kansas City, Missouri; and Los Angeles, California—and have been the subject of careful study.<sup>6</sup> States currently taking the lead in terms of numbers of jurisdictions with existing or developing programs include Florida, Ohio, New Jersey, Massachusetts, and California.

## II. KEY PROGRAM FEATURES

Various options for organizing Neighborhood Justice Centers are summarized in *Neighborhood Justice Centers: An Analysis of Potential Models*,<sup>7</sup> a 1977 publication of LEAA's National Institute. Based on intensive reviews of six projects, the report covers these key program features:

### • Case Criteria

Projects tend to focus on disputes occurring among individuals who have an ongoing relationship—relatives, landlords and tenants, merchants and consumers, employers and employees or neighbors. These cases are considered most amenable to mediation/arbitration because they offer possibility for compromise and the parties typically are interested in arriving at a joint settlement. Cases at the various projects differ substantially in level of seriousness. New York City's Dispute Center processes misdemeanors as well as felonies occurring among acquaintances (such as felonious assaults) while most of the other projects restrict their case-loads to misdemeanors. Many of the projects process a range of civil complaints including consumer, landlord-tenant, and domestic cases.

### • Referral Sources

Projects receive referrals from many sources including the police, prosecutors, the courts, social service agencies, and individual citizens. For example, Boston's Urban Court Project receives the majority of its referrals from the local court; projects in Miami and Columbus receive the bulk of their referrals from the prosecutor's office. A San Francisco program has made a major effort to solicit referrals directly from the local community. Findings from evaluations to date (in Florida<sup>8</sup> and in the 3 Department of Justice sponsored sites) indicate that disputants referred by criminal justice personnel are the most likely to follow through to the hearing stage.

### • Intake Procedures

Projects vary considerably in the degree to which they actively pursue clients once they have been referred to the project. Typically, both the complainant and the respondent are notified by mail once a referral is received. Although the voluntary participation of both parties is desirable, in some cases respondents in criminal disputes are informed that failure to appear may result in filing criminal charges on the complaint.

### • Resolution Technique

Many projects attempt to settle disputes through conciliation before scheduling a formal mediation or arbitration session. Conciliation attempts may involve either telephone or letter contacts with disputants. Mediation involves attempts on the part of a neutral third party to settle a dispute through discussion and mutual agreements. By definition, a mediator does not have the power to resolve a dispute unilaterally but instead may offer suggestions and attempt to facilitate sufficient communication among disputants to encourage a resolution. Arbitrators, on the other hand, have the authority to develop a binding agreement enforceable in the civil courts if the disputants fail to reach a settlement. Projects that employ arbitration (e.g., Rochester and New York City) attempt to mediate the dispute first and resort to imposed arbitration awards only when all mediation attempts have failed. The majority of states have modern arbitration legislation and can support projects using either mediation or arbitration. Hearings may range in length from 30 minutes to 2 hours and may use either one or a panel of mediators.

- **Project Staff**

Administrative, intake and social service staff at the various projects tend to have varied backgrounds, most commonly in the social sciences. Hearing staff have included lay citizens trained in mediation or arbitration techniques (used by projects in Boston, Rochester and New York City), law students or lawyers (typified by projects in Columbus, Ohio, and Orlando, Florida, respectively) or professional mediators including clinical psychologists and social workers (employed by the Miami project). A small claims court mediation effort in Maine has relied heavily on retired persons as dispute resolvers.

- **Hearing Staff Training**

The American Arbitration Association and the Institute for Mediation and Conflict Resolution have developed rigorous training programs for mediators and arbitrators. In addition, local training resources often are available. Projects generally provide their mediators/arbitrators with 40-50 hours of training including lectures, role-played hearings, videotaped feedback on performance and co-mediation with experienced hearing officers in actual hearing situations.

- **Follow-up Techniques**

Many of the projects recontact disputants after 30 to 60 days to determine if the resolutions remain in force. If a former complainant is dissatisfied with the progress of the resolution, the respondent is typically called and encouraged to adhere to the terms of the agreement. In the arbitration projects, staff members are available to assist disputants who wish to file a civil claim in cases where the arbitration agreement has broken down. Despite this provision, disputants have rarely chosen to enforce civil awards in court.

### III. BENEFITS

The potential benefits of using a neighborhood justice approach for handling minor disputes range from more equitable and efficient case processing to possible reduced caseload burdens on the traditional justice system:

- **Rapid case processing.** Project evaluations report that cases usually receive hearings within 7-15 days of initial referral. Court processing of comparable cases is often reported to require 10 weeks or longer.
- **Increased access.** Access to justice is improved since projects do not charge for services, do not require lawyers, hold hearings at times convenient to all parties to the dispute (including nights and weekends) and often provide multilingual staffs to serve non-English speaking disputants.
- **Improved process.** Mediation and arbitration methods offer the opportunity to explore the disputants' underlying relationships and conflicts—a process not often possible in the traditional court setting but important to the resolution of the dispute.
- **Effective, fair hearings.** Only limited data are available on client perceptions of Neighborhood Justice Center dispute processing. Composite data from an evaluation of three NILECJ funded projects in Atlanta, Kansas City and Los Angeles show that 84 percent of over 1,000 disputants interviewed expressed satisfaction with the mediation process.
  - 88 percent expressed satisfaction with the mediator;
  - 88 percent expressed satisfaction with the overall experience at the Neighborhood Justice Center; and
  - 73 percent stated that they would return to the Neighborhood Justice Center for similar problems in the future.

These data are difficult to interpret without comparable data from other dispute processing forums such as the courts, but they do suggest high absolute levels of satisfaction.<sup>9</sup>

- **Diversion from the traditional court system.** To the extent that cases handled by a dispute resolution project would have required additional official attention, the burden at all stages of the system is reduced. Although rigorous data confirming the nature and magnitude of the diversion benefit are not presently available, programs that process large caseloads are likely to provide substantial relief to their local courts. (The Columbus, Ohio City Attorney's Office, for example, reports that annual court case filings excluding traffic offenses have dropped substantially perhaps due to the project's influence.)
- **Possible reduced costs to the criminal justice system.** Programs vary widely in unit costs for processing referrals and hearings, based upon factors such as the volume and types of cases handled, mediator characteristics, and facilities. The Columbus, Ohio project, the least expensive of those recently studied, reports a cost-per-referral for interpersonal disputes of less than \$10 and a cost-per-hearing of approximately \$20. This project uses law students for mediators, has low fixed costs and a large caseload. If the cases processed by the Columbus project went to court, costs might have averaged \$200 per case according to Columbus prosecutorial personnel. Other projects report costs ranging from \$36 to \$300 per referral. More rigorous cost comparisons are needed and will require research to determine the proportion of project cases that would have actually proceeded to court.

#### IV. AGENDA FOR ACTION

Defining local needs, designing a responsive program, choosing an appropriate project sponsor and obtaining commitments to cover operating costs are steps required in virtually all jurisdictions before projects can be established.

##### Determining Local Needs

In assessing the need for a project in a given locality, planners should:

1. Assess the current court capacity for processing minor civil and criminal cases by reviewing available data on court caseload size, backlogs in case processing, average delays in processing and related issues. These data are often available in annual reports prepared by the court administrator's office. Data should be gathered from courts handling minor criminal cases as well as small claims courts and other courts processing minor civil cases. (Data recently collected by the National Center for State Courts provides information on typical delays in local courts.)<sup>10</sup>
2. Determine the availability of local forums providing alternative methods for dispute processing. According to recent research, a surprisingly large number of modest efforts already exist in many communities. These may include:
  - Better Business Bureau and/or Chamber of Commerce mediation of consumer cases;
  - Housing Authority, Housing Court, or tenant union mediation projects for housing-related matters;
  - American Arbitration Association fee mediation and arbitration services;
  - informal mediation efforts by the court clerk's office or local prosecutors for minor criminal matters.
3. If the preliminary data indicate unmet needs in the community, a planning board should be established, made up of:
  - representatives of the local courts and justice agencies such as the police and prosecutor's office;
  - directors of any alternative dispute processing projects located in the community;
  - members of local civic and neighborhood organizations; and
  - executives from the city or county government.

Ideally, boards should attempt to raise funds from local sources (foundations or planning agencies) to hire a small staff to continue the needs assessment. If such funds are not available, the members of the board may be able to gather relevant data from local agencies at no cost.

##### Selecting a Project Sponsor

Once the needs assessment is completed and tentative plans for a specific project design have been formulated (based upon a consideration of the major program elements discussed in Section II of this Brief), the board members should explore possibilities for project sponsorship. Three major types of sponsors are common:

1. **Public Sponsorship.** Project sponsors have included the courts (the Miami Citizen Dispute Settlement Program), the prosecutor (the Columbus Night Prosecutor Program), a city manager's office (the Kansas City Neighborhood Justice Center) and county government (the Santa Clara Neighborhood Mediation and Conciliation Services). The Kansas City Police Department sponsored an experimental project a number of years ago, and many police departments sponsor family crisis intervention units which may mediate family-related disputes.

2. **Private sponsorship with close ties to the justice system.** A number of projects have been sponsored by private organizations with close ties to the local justice system. (These include the Rochester Community Dispute Services Project operated by the American Arbitration Association, the Institute for Mediation and Conflict Resolution Dispute Center in New York City, the Orlando Citizen Dispute Settlement Project sponsored by the local bar association, and the Atlanta Neighborhood Justice Center operated by a group specifically incorporated to sponsor the program.)
3. **Private sponsorship with a community rather than justice system orientation.** Projects have also been developed under the sponsorship of local private organizations which rely primarily upon community control of operations and the referral of cases directly from the community with only limited referrals from the justice system. The San Francisco Community Board Program and the Los Angeles Neighborhood Justice Center both have this orientation and are sponsored by a local non-profit corporation and the local bar association, respectively. Projects of this type tend to stress the value of decentralization of power, return of control regarding major decisions to the community, and increasing leadership skills within the community. Jurisdictions developing community-based projects should anticipate relatively low caseloads during the initial stages of project development due to the need to develop credibility and visibility within the community.

Choice of a sponsor depends on many factors including the availability of potential sponsors and the goals of project planners. If assisting the local criminal justice system is paramount, then public sponsorship or private sponsorship with close ties to the system may be preferable. If, on the other hand, planners feel the greatest need is to provide support to reduce community tensions, build a sense of community spirit, and develop local leadership, then private sponsorship with a community orientation may be appropriate. The National Institute publication on Neighborhood Justice Centers mentioned earlier provides a more detailed discussion of the advantages and disadvantages of various forms of sponsorship.

##### Obtaining Funds

A variety of organizations have funded mediation projects including city and county government, state government, foundations, the American Bar Association, and federal agencies including the Department of Housing and Urban Development through community development funds, the Department of Labor through CETA funds, and LEAA through state-administered block grant funds. The National Institute of Justice also recently funded the development of three experimental projects in Atlanta, Kansas City, and Los Angeles. However, these projects were supported with research funds in order to test the relative effectiveness of different approaches to dispute resolution. No additional funds are expected to be available from the National Institute. The Dispute Resolution Act (P.L. 96-190) authorizes the development of a Dispute Resolution Program in the U.S. Department of Justice and the funding of dispute processing projects. This bill was signed into law on February 12, 1980 but had not received an appropriation by the time this report went to press. If an appropriation is approved, the availability of funds for experimentation with dispute processing innovations will be advertised in the *Federal Register*.

Neighborhood Justice Centers need not be costly. Projects with relatively modest budgets include Columbus, Ohio, and Rochester, New York (with operating costs in 1977 of \$43,000 and \$65,000 per year, respectively). Project costs vary due to a wide variety of factors including caseload size, the degree of need for intake staff at justice system agencies, availability of donated space and supplies from local agencies, etc. To keep project costs low, consider:

- **The use of volunteers.** The Atlanta Neighborhood Justice Center involves many volunteers in case intake; the Chapel Hill, North Carolina, Dispute Settlement Center is run entirely by volunteers with a projected annual budget of less than \$8,000 including the cost of office

space. Gallup polls suggest that the majority of Americans are eager to volunteer for social service work, and some projects have been swamped with volunteer applications: A San Jose project received 300 applications for 18 volunteer slots.

- **The use of "free" space.** The Miami project holds hearings in unused courtrooms at night. Many projects receive in-kind contributions of space from government agencies. Other projects use donated space in churches, YMCA's or schools (e.g., the Coram, New York mediation center).
- **Possible use of sliding scale charges.** The Denver Conciliation and Mediation Services project charges clients on a sliding scale for services, as does the American Arbitration Association for domestic dispute processing in some cities. Projects may wish to explore the possibilities for such charges in certain cases, with no charge for low-income individuals.

#### Developing State-Level Support for Local Projects

Although state-level legal authorization is not required, legislative support can promote and guide the development of appropriate dispute resolution alternatives. The California legislature has developed a bill for support of neighborhood justice centers. (Assembly Bill No. 1186 is attached.) The bill provides (1) a statewide advisory committee for encouraging the development of justice centers, (2) project guidelines, (3) funding mechanisms (no state appropriation is provided due to the lack of general revenues resulting from enactment of Proposition 13 but any available Federal funds would be channeled through the mechanisms), and (4) confidentiality safeguards.

States considering assisting justice center development have numerous options including:

- **Financial Support.** The California Legislature originally proposed a state appropriation of 1.5 million dollars and the New York Legislature is currently drafting a bill to provide 3 million dollars for experimental project support.
- **Confidentiality safeguards.** Both the California bill and a recently drafted Florida House of Representatives bill provide confidentiality safeguards for case-related material. (Florida HB 49 is also appended.) The California bill notes that all memoranda, files and written agreements are confidential and privileged and are not subject to disclosure in any judicial or administrative proceedings. Similarly, all communications are privileged. The Florida bill provides a very broad safeguard: "any information received by any person employed by, attending or present at or volunteering services to, a Citizen Dispute Settlement Center... is privileged and confidential." A legislative provision of confidentiality of information presented at a Neighborhood Justice Center would be very valuable. At present, projects must rely on attempts to negotiate agreements from local prosecutors' offices that information will not be demanded from mediators or staff members.
- **Limitations on staff civil liability.** The Florida bill provides an additional safeguard against the civil liability of staff members stating "a Citizen Dispute Settlement Center may refer the parties to judicial or nonjudicial supportive service agencies without being held liable for any civil damages for such action." The value of such a legislatively-mandated safeguard should be considered by those proposing justice center legislation.

In addition to these legislative actions, policy makers in the executive and judicial branches can provide valued support. The Supreme Courts of Wisconsin and Iowa, for example, have encouraged the funding of neighborhood justice centers in their states. In Florida, the Supreme Court has instituted a state-level project to provide research, technical assistance, evaluation and training in support of dispute settlement programs through the Office of the State Courts Administrator.<sup>11</sup> Development of a statewide public information campaign is also planned. Services such as these can encourage the creation of effective alternatives for minor dispute resolution.

#### V. SOURCES FOR FURTHER INFORMATION AND ASSISTANCE

The Appendix provides a copy of the federal Dispute Resolution Act and copies of legislation drafted in California and Florida for the support of innovative dispute processing mechanisms. Both state legislatures will be considering variants of these bills in the future.

The following written reports, referenced in the text of this Brief, are available from the sources noted in each citation.

1. **Outside the Courts: A Survey of Diversion Alternatives in Civil Cases**, National Center for State Courts, 1977. (Available from National Center for State Courts, 300 Newport Ave., Williamsburg, Va. 23185 as Publication No. R0023.)
2. **Felony Arrests: Their Prosecution and Disposition in New York City's Courts**, Vera Institute of Justice, 1977. (Available from the Vera Institute of Justice, 275 Madison Avenue, New York, New York 10016.)
3. **Report of the Pound Conference Follow-up Task Force**, American Bar Association, 1976. (Available from the American Bar Association, 1800 M Street, N.W., Washington, D.C. 20036.)
4. **Dispute Resolution Act (P.L. 96-190)**. (Additional copies of the Act and records of the hearings on the bill can be obtained from the Documents Room, H226, U.S. Capitol Building, Washington, D.C. 20515.)
5. **Report on the National Conference on Minor Disputes Resolution**, American Bar Association, 1977. (Available from the American Bar Association, 1800 M St., N.W., Washington, D.C. 20036.)
6. **Neighborhood Justice Centers: Interim Evaluation Report**, U.S. Department of Justice, LEAA, National Institute of Law Enforcement and Criminal Justice, 1979. (Available through the National Criminal Justice Reference Service (NCJRS), Box 6000, Rockville, Maryland 20850.) Final report expected early in 1980.
7. **Neighborhood Justice Centers: An Analysis of Potential Models**, U.S. Department of Justice, LEAA, National Institute of Law Enforcement and Criminal Justice, 1977. (Available from NCJRS.) An updated and expanded version of this document will be published in the summer of 1980 and will be announced by NCJRS.
8. **The Citizens Dispute Settlement Process in Florida: A Study of Five Programs**, Florida Supreme Court, 1979. (Available from Office of the State Court Administrator, Supreme Court Building, Tallahassee, Florida 32304.)
9. See also **The Citizen Dispute Settlement Program: Resolving Disputes Outside the Courts, Orlando, Florida**, American Bar Association, 1977. (Available from the American Bar Association, 1800 M St., N.W., Washington, D.C. 20036.)
10. **Reducing Trial Court Delay Project**, National Center for State Courts, 1978. (Available from the National Center for State Courts, 300 Newport Ave., Williamsburg, Va. 23185.)
11. "Citizen Dispute Settlement: The Florida Experience," *ABA Journal*, April 19, 1979.

Finally, the following individuals who are experienced in planning and implementing Neighborhood Justice Centers may be contacted for information and advice:

- Ms. Joan Fund  
Night Prosecutor Program  
City Hall Annex Building  
67 North Front Street, Room 400  
Columbus, Ohio 43215  
614/725-8731
- Ms. Linda Hope  
Citizen Dispute Settlement Program  
1351 N.W. 12th Street  
Miami, Florida 33125  
305/547-7062
- Mr. Raymond Shonholtz  
Community Board Program  
149 Ninth Street  
San Francisco, California 94103  
415/552-1250
- Ms. Edith Primm  
Neighborhood Justice Center of Atlanta  
1118 Euclid Avenue, N.E.  
Atlanta, Georgia 30307  
405/523-8236
- Mr. Maurice Macey  
Neighborhood Justice Center  
American Bank Building, Suite #305  
One West Armor  
Kansas City, Missouri 64111  
816/274-1895
- Mr. Joel Edelman  
Neighborhood Justice Center  
1527 Venice Blvd.  
Venice, California 90291  
213/390-7666
- Mr. Lawrence Ray  
American Bar Association  
1800 M Street, N.W.  
Washington, D.C. 20036  
202/331-2298

#### Appendix

#### Sample Legislation Supporting Justice Centers

- U.S. Public Law 96-190, The Dispute Resolution Act
  - Florida HB49
  - California Assembly Bill No. 1186

An Act

To provide financial assistance for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of minor disputes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Dispute Resolution Act".

SEC. 2. (a) The Congress finds and declares that—

- (1) for the majority of Americans, mechanisms for the resolution of minor disputes are largely unavailable, inaccessible, ineffective, expensive, or unfair;
  - (2) the inadequacies of dispute resolution mechanisms in the United States have resulted in dissatisfaction and many types of inadequately resolved grievances and disputes;
  - (3) each individual dispute, such as that between neighbors, a consumer and seller, and a landlord and tenant, for which adequate resolution mechanisms do not exist may be of relatively small social or economic magnitude, but taken collectively such disputes are of enormous social and economic consequence;
  - (4) there is a lack of necessary resources or expertise in many areas of the Nation to develop new or improved consumer dispute resolution mechanisms, neighborhood dispute resolution mechanisms, and other necessary dispute resolution mechanisms;
  - (5) the inadequacy of dispute resolution mechanisms throughout the United States is contrary to the general welfare of the people;
  - (6) neighborhood, local, or community based dispute resolution mechanisms can provide and promote expeditious, inexpensive, equitable, and voluntary resolution of disputes, as well as serve as models for other dispute resolution mechanisms; and
  - (7) the utilization of neighborhood, local, or community resources, including volunteers (and particularly senior citizens) and available building space such as space in public facilities, can provide for accessible, cost-effective resolution of minor disputes.
- (b) It is the purpose of this Act to assist the States and other interested parties in providing to all persons convenient access to dispute resolution mechanisms which are effective, fair, inexpensive, and expeditious.

DEFINITIONS

SEC. 3. For purposes of this Act—

- (1) the term "Advisory Board" means the Dispute Resolution Advisory Board established under section 7(a);
- (2) the term "Attorney General" means the Attorney General of the United States (or the designee of the Attorney General of the United States);
- (3) the term "Center" means the Dispute Resolution Resource Center established under section 6(a);
- (4) the term "dispute resolution mechanism" means—
  - (A) a court with jurisdiction over minor disputes;
  - (B) a forum which provides for arbitration, mediation, conciliation, or a similar procedure, which is available to resolve a minor dispute; or
  - (C) a governmental agency or mechanism with the objective of resolving minor disputes;
- (5) the term "grant recipient" means any State or local government, any State or local governmental agency, and any nonprofit organization which receives a grant under section 8;
- (6) the term "local" means of or pertaining to any political subdivision of a State; and
- (7) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

CRITERIA FOR DISPUTE RESOLUTION MECHANISMS

SEC. 4. Any grant recipient which desires to use any financial assistance received under this Act in connection with establishing or maintaining a dispute resolution mechanism shall provide satisfactory assurances to the Attorney General that the dispute resolution mechanism will provide for—

- (1) assistance to persons using the dispute resolution mechanism;
- (2) the resolution of disputes at times and locations which are convenient to persons the dispute resolution mechanism is intended to serve;
- (3) adequate arrangements for participation by persons who are limited by language barriers or other disabilities;

(4) reasonable, fair, and readily understandable forms, rules, and procedures, which shall include, where appropriate, those which would—

- (A) ensure that all parties to a dispute are directly involved in the resolution of the dispute, and that the resolution is adequately implemented;
  - (B) promote, where feasible, the voluntary resolution of disputes (including the resolution of disputes by the parties before resorting to the dispute resolution mechanism established by the grant recipient);
  - (C) promote the resolution of disputes by persons not ordinarily involved in the judicial system;
  - (D) provide an easy way for any person to determine the proper name in which, and the proper procedure by which, any person may be made a party to a dispute resolution proceeding;
  - (E) permit the use of dispute resolution mechanisms by the business community if State law so permits; and
  - (F) ensure reasonable privacy protection for individuals involved in the dispute resolution process;
- (5) the dissemination of information relating to the availability, location, and use of other redress mechanisms in the event that dispute resolution efforts fail or the dispute involved does not come within the jurisdiction of the dispute resolution mechanism;
- (6) consultation and cooperation with the community and with governmental agencies; and
- (7) the establishment of programs or procedures for effectively, economically, and appropriately communicating to disputants the availability and location of the dispute resolution mechanism.

DEVELOPMENT OF DISPUTE RESOLUTION MECHANISMS BY STATES

SEC. 5. Each State is hereby encouraged to develop—

- (1) sufficient numbers and types of readily available dispute resolution mechanisms which meet the criteria established in section 4; and
- (2) a public information program which effectively communicates to potential users the availability and location of such dispute resolution mechanisms.

ESTABLISHMENT OF PROGRAM; DISPUTE RESOLUTION RESOURCE CENTER

SEC. 6. (a) The Attorney General shall establish a Dispute Resolution Program in the Department of Justice. Such program shall include establishment of a Dispute Resolution Resource Center and a Dispute Resolution Advisory Board and the provision of financial assistance under section 8.

(b) The Center—

- (1) shall serve as a national clearinghouse for the exchange of information concerning the improvement of existing dispute resolution mechanisms and the establishment of new dispute resolution mechanisms;
- (2) shall provide technical assistance to State and local governments and to grant recipients to improve existing dispute resolution mechanisms and to establish new dispute resolution mechanisms;
- (3) shall conduct research relating to the improvement of existing dispute resolution mechanisms and to the establishment of new dispute resolution mechanisms, and shall encourage the development of new dispute resolution mechanisms;
- (4) shall undertake comprehensive surveys of the various State and local governmental dispute resolution mechanisms and major privately operated dispute resolution mechanisms in the States, which shall determine—
  - (A) the nature, number, and location of dispute resolution mechanisms in each State;
  - (B) the annual expenditure and operating authority for each such mechanism;
  - (C) the existence of any program for informing the potential users of the availability of each such mechanism;
  - (D) an assessment of the present use of, and projected demand for, the services offered by each such mechanism; and
  - (E) other relevant data relating to the types of disputes addressed by each such mechanism including the average cost and time expended in resolving various types of disputes;
- (5) shall identify, after consultation with the Advisory Board, those dispute resolution mechanisms or aspects thereof which—
  - (A) are most fair, expeditious, and inexpensive to all parties in the resolution of disputes; and
  - (B) are suitable for general adoption;



(6) shall make recommendations, after consultation with the Advisory Board, regarding the need for new or improved dispute resolution mechanisms and similar mechanisms;

(7) shall identify, after consultation with the Advisory Board, the types of minor disputes which are most amenable to resolution through specific dispute resolution techniques, in order to assist the Attorney General in determining the types of projects which shall receive financial assistance under section 8;

(8) shall, as soon as practicable after the date of the enactment of this Act, undertake an information program to advise potential grant recipients, and the chief executive officer, attorney general, and chief judicial officer of each State, of the availability of funds, and eligibility requirements, under this Act;

(9) may make grants to, or enter into contracts with, to the extent or in such amounts as are provided in appropriation Acts, public agencies, institutions of higher education, and qualified persons to conduct research, demonstrations, or special projects designed to carry out the provisions of paragraphs (1) through (7); and

(10) in awarding such grants and entering into such contracts, shall have as one of its major priorities dispute resolution mechanisms that resolve consumer disputes.

(c) Upon request of the Center, the Community Relations Service of the Department of Justice and the Federal Mediation and Conciliation Service are authorized to assist the Center in performing its functions under this section.

(d) Upon the request of the Attorney General, not more than a total of ten Federal employees from the various executive agencies (as defined in section 105 of title 5, United States Code) may be detailed to the Center to assist the Center to perform its functions under this Act. The head of any such agency, with the consent of the employee concerned, may enter into an agreement with the Attorney General to provide for the detail of any employee of his agency for a period of not more than five years, notwithstanding the time limitation contained in section 3341 of title 5, United States Code. An employee detailed under this section is considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed. Such employee is entitled to pay, allowances, and other benefits from funds available to the agency from which such employee is detailed, except that the Department of Justice shall pay to such employee all travel expenses and allowances payable for services performed during the detail.

#### DISPUTE RESOLUTION ADVISORY BOARD

SEC. 7. (a) The Attorney General shall establish a Dispute Resolution Advisory Board in the Department of Justice.

(b) The Advisory Board shall—

(1) advise the Attorney General with respect to the administration of the Center under section 6 and the administration of the financial assistance program under section 8;

(2) consult with the Center in accordance with the provisions of section 6(b)(5), section 6(b)(6), and section 6(b)(7); and

(3) consult with the Attorney General in accordance with the provisions of sections 8(b)(4) and 9(d).

(c)(1) The Advisory Board shall consist of nine members appointed by the Attorney General, and shall be composed of persons from State governments, local governments, business organizations, the academic or research community, neighborhood organizations, community organizations, consumer organizations, the legal profession, and State courts.

(2) A vacancy in the Advisory Board shall be filled in the same manner as the original appointment.

(3)(A) Except as provided in subparagraph (B), members of the Advisory Board shall be appointed for terms which expire at the end of September 30, 1984.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of the term.

(d) While away from their homes or regular places of business in the performance of services for the Advisory Board, members of the Advisory Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code. The members of the Advisory Board shall receive no compensation for their services except as provided in this subsection.

(e) The Chairman of the Federal Trade Commission may advise and consult with the Attorney General, and may consult with the Center, regarding matters within its jurisdiction.

#### FINANCIAL ASSISTANCE

SEC. 8. (a) The Attorney General may provide financial assistance in the form of grants to applicants who have submitted, in accordance with subsection (c), applications for the purpose of improving existing dispute resolution mechanisms or establishing new dispute resolution mechanisms.

(b) As soon as practicable after the date of the enactment of this Act, the Attorney General shall prescribe—

(1) the form and content of applications for financial assistance to be submitted in accordance with subsection (c);

(2) the time schedule for submission of such applications;

(3) the procedures for approval of such applications, and for notification to each State of financial assistance awarded to applicants in the State for any fiscal year;

(4) after consultation with the Advisory Board, the specific criteria for awarding grants to applicants under this section, which shall—

(A) be consistent with the criteria established in section 4;

(B) take into account—

(i) the population and population density of the States in which applicants for financial assistance available under this section are located;

(ii) the financial need of States and localities in which such applicants are located;

(iii) the need in the State or locality involved for the type of dispute resolution mechanism proposed;

(iv) the national need for experience with the type of dispute resolution mechanism proposed; and

(v) the need for obtaining experience in each region of the Nation with dispute resolution mechanisms in a diversity of situations, including rural, suburban, and urban situations; and

(C) provide that one of the major priorities of the Attorney General shall be the funding of dispute resolution mechanisms that resolve consumer disputes;

(5)(A) the form and content of such reports to be filed under this section as may be reasonably necessary to monitor compliance with the requirements of this Act and to evaluate the effectiveness of projects funded under this Act; and

(B) the procedures to be followed by the Attorney General in reviewing such reports;

(6) the manner in which financial assistance received under this section may be used, consistent with the purposes specified in subsection (e); and

(7) procedures for publishing in the Federal Register a notice and summary of approved applications.

(c) Any State or local government, State or local governmental agency, or nonprofit organization shall be eligible to receive a grant for financial assistance under this section. Any such entity which desires to receive a grant under this section may submit an application to the Attorney General in accordance with the specific criteria established by the Attorney General under subsection (b)(4). Such application shall—

(1) set forth a proposed plan demonstrating the manner in which the financial assistance will be used—

(A) to establish a new dispute resolution mechanism which satisfies the criteria specified in section 4; or

(B) to improve an existing dispute resolution mechanism in order to bring such mechanism into compliance with such criteria;

(2) set forth the types of disputes to be resolved by the dispute resolution mechanism;

(3) identify the person responsible for administering the project set forth in the application;

(4) include an estimate of the cost of the proposed project;

(5) provide for the establishment of fiscal controls and fund accounting of Federal financial assistance received under this Act;

(6) provide for the submission of reports in such form and containing such information as the Attorney General may require under subsection (b)(5)(A);

(7) set forth the nature and extent of participation of interested parties, including representatives of those individuals whose disputes are to be resolved by the mechanism, in the development of the application; and

(8) describe the qualifications, period of service, and duties of persons who will be charged with resolving or assisting in the resolution of disputes.

(d) The Attorney General, in determining whether to approve any application for financial assistance to carry out a project under this section, shall give special consideration to projects which are likely to continue in operation after expiration of the grant made by the Attorney General.

(e)(1) Financial assistance available under this section may be used only for the following purposes—

(A) compensation of personnel engaged in the administration, adjudication, conciliation, or settlement of minor disputes, including personnel whose function is to assist in the preparation and resolution of claims and the collection of judgments;

(B) recruiting, organizing, training, and educating personnel described in subparagraph (A);

(C) improvement or leasing of buildings, rooms, and other facilities and equipment and leasing or purchase of vehicles needed to improve the settlement of minor disputes;

(D) continuing monitoring and study of the mechanisms and settlement procedures employed in the resolution of minor disputes in a State;

(E) research and development of effective, fair, inexpensive, and expeditious mechanisms and procedures for the resolution of minor disputes;

(F) sponsoring programs of nonprofit organizations to carry out any of the provisions of this paragraph; and

(G) other necessary expenditures directly related to the operation of new or improved dispute resolution mechanisms.

(2) Financial assistance available under this section may not be used for the compensation of attorneys for the representation of disputants or claimants or for otherwise providing assistance in any adversary capacity.

(f)(1) In the case of an application for financial assistance under this section submitted by a local government or governmental agency, the Attorney General shall furnish notice of such application to the chief executive officer, attorney general, and chief judicial officer of the State in which such applicant is located at least thirty days before the approval of such application. The chief executive officer, attorney general, and chief judicial officer of the State shall be given an opportunity to submit written comments to the Attorney General regarding such application and the Attorney General shall take such comments into consideration in determining whether to approve such application.

(2) In the case of an application for financial assistance under this section submitted by a nonprofit organization, the Attorney General shall furnish notice of such application to the chief executive officer, attorney general, and chief judicial officer of the State in which the applicant is located and to the chief executive officers of the units of general local government in which such applicant is located at least thirty days before the approval of such application. The chief executive officer, attorney general, and chief judicial officer of the State, and the chief executive officers of the units of general local government shall be given an opportunity to submit written comments to the Attorney General regarding such application and the Attorney General shall take such comments into consideration in determining whether to approve such application.

(g)(1) Upon the approval of an application by the Attorney General under this section, the Attorney General shall disburse to the grant recipient involved such portion of the estimated cost of the approved project as the Attorney General considers appropriate, except that the amount of such disbursement shall be subject to the provisions of paragraph (2).

(2) The Federal share of the estimated cost of any project approved under this section shall not exceed—

(A) 100 per centum of the estimated cost of the project, for the first and second fiscal years for which funds are available for grants under this section;

(B) 75 per centum of the estimated cost of the project, for the third fiscal year for which funds are available for such grants; and

(C) 60 per centum of the estimated cost of the project, for the fourth fiscal year for which funds are available for such grants.

(3) Payments made under this subsection may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment. Such payments shall not be used to compensate for any administrative expense incurred in submitting an application for a grant under this section.

(4) In the case of any State or local government, or State or local governmental agency, which desires to receive financial assistance under this section, such government or agency may not receive any such financial assistance for any fiscal year if its expenditure of non-Federal funds for other than nonrecurrent expenditures for the establishment and administration of dispute resolution mechanisms will be less than its expenditure for such purposes in the preceding fiscal year, unless the Attorney General determines that a reduction in expenditures is reasonable.

(h) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any grant recipient, finds that the project for which such grant was received no longer complies with the provisions of this Act, or with the relevant application as approved by the Attorney General, the Attorney General shall notify such grant recipient of such findings and no further payments may be made to such grant recipient by the Attorney General until the Attorney General is satisfied that such noncompliance has been, or promptly will be, corrected. The Attorney General may authorize the continuance of payments with respect to any program pursuant to this Act which is being carried out by such grant recipient and which is not involved in the noncompliance.

(i) The Attorney General, to the extent or in such amounts as are provided in appropriation Acts shall enter into a contract for an independent study of the Dispute Resolution Program. The study shall evaluate the performance of such program and determine its effectiveness in carrying out the purpose of this Act. The study shall contain such recommendations for additional legislation as may be appropriate, and shall include recommendations concerning the continuation or termination of the Dispute Resolution Program. Not later than April 1, 1984, the Attorney General shall make public and submit to each House of the Congress a report of the results of the study.

(j) No funds for assistance available under this section shall be expended until one year after the date of the enactment of this Act.

#### RECORDS; AUDIT; ANNUAL REPORT

SEC. 9. (a) Each grant recipient shall keep such records as the Attorney General shall require, including records which fully disclose the amount and disposition by such grant recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the project or undertaking supplied by other sources, and such other records as will assist in effective financial and performance audits.

(b) The Attorney General shall have access for purposes of audit and examination to any relevant books, documents, papers, and records of grant recipients. The authority of the Attorney General under this subsection is restricted to compiling information necessary to the filing of the annual report required under this section. No information revealed to the Attorney General pursuant to such audit and examination about an individual or business which has utilized the dispute resolution mechanism of a grant recipient may be used in, or disclosed for, any administrative, civil, or criminal action or investigation against the individual or business except in an action or investigation arising out of and directly related to the program being audited and examined.

(c) The Comptroller General of the United States, or any duly authorized representatives of the Comptroller General, shall have access to any relevant books, documents, papers, and records of grant recipients until the expiration of three years after the final year of the recipient of any financial assistance under this Act, for the purpose of financial and performance audits and examination.

(d) The Attorney General, in consultation with the Advisory Board shall submit to the President and the Congress not later than one year after the date of the enactment of this Act, and on or before February 1 of each succeeding year, a report relating to the administration of this Act during the preceding fiscal year. Such report shall include—

(1) a list of all grants awarded;

(2) a summary of any actions undertaken in accordance with section 8(h);

(3) a listing of the projects undertaken during such fiscal year and the types of other dispute resolution mechanisms which are being created, and, to the extent feasible, a statement as to the success of all mechanisms in achieving the purpose of this Act;

(4) the results of financial and performance audits conducted under this section; and

(5) an evaluation of the effectiveness of the Center in implementing this Act, including a detailed analysis of the extent to which the purpose of this Act has been achieved, together with recommendations with respect to whether and when the program should be terminated and any recommendations for additional legislation or other action.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 10. (a) To carry out the provisions of section 6 and section 7, there is authorized, to be appropriated to the Attorney General \$1,000,000 for each of the fiscal years 1980, 1981, 1982, 1983, and 1984.

(b) To carry out the provisions of section 8, there is authorized to be appropriated to the Attorney General \$10,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984.

(c) Sums appropriated under this section are authorized to remain available until expended.

Approved February 12, 1980.

#### LEGISLATIVE HISTORY:

HOUSE REPORT: No. 96-492, Pt. 1 (Comm. on Interstate and Foreign Commerce) and Pt. 2 (Comm. on the Judiciary).

#### CONGRESSIONAL RECORD:

Vol. 125 (1979): Apr. 5, considered and passed Senate. Dec. 10-12, considered and passed House, amended.

Vol. 126 (1980): Jan. 30, Senate concurred in House amendments. WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS: Vol. 16, No. 7, Feb. 12, Presidential statement.

By Representative Davis

A bill to be entitled an act relating to mediation of disputes between citizens; authorizing the establishment of Citizen Dispute Settlement Centers; requiring appointment of a council to adopt certain rules for the administration of such a center; prohibiting such a center from making or imposing any adjudication, settlement, or penalty; providing for confidentiality of certain information; providing for referral of disputes to certain agencies; authorizing the seeking and acceptance of funds from certain sources and the expenditure of such funds; providing exemptions for certain existing centers; providing an effective date.

*Be It Enacted by the Legislature of the State of Florida:*

Section 1. (1) The chief judge of a judicial circuit, after consultation with the board of county commissioners of a county or with two or more boards of county commissioners of counties within the judicial circuit, may establish a Citizen Dispute Settlement Center for such county or counties.

(2) Each Citizen Dispute Settlement Center shall be administered in accordance with rules adopted by a council composed of at least six members. The chief judge of the judicial circuit shall serve as chairman of the council and shall appoint the other members of the council. The membership of the council shall include a representative of the state attorney and of each sheriff, county court judge, and board of county commissioners within the geographical jurisdiction of the center and two members from the community. The membership of the council may also include any other interested persons. The council shall appoint a director of the center, who shall meet criteria for appointment established by the council, and who shall administer the operations of the center.

(3) The Citizen Dispute Settlement Center, subject to the approval of the council, shall formulate and implement a plan for creating an informal forum for the mediation and settlement of disputes. Such plan shall prescribe:

- (a) Objectives and purposes of the center;
- (b) Procedures for filing complaints with the center and for scheduling informal mediation sessions participated in by the parties to the complaint;
- (c) Screening procedures to ensure that each dispute mediated by the center meets criteria for fitness for mediation set by the council;
- (d) Procedures for rejecting or refusing to mediate any dispute which does not meet such criteria;
- (e) Procedures for giving notice of the time, place, and nature of the mediation session to the parties, and for conducting mediation sessions; and
- (f) Procedures to ensure that participation by all parties is voluntary.

(4) Each mediation session conducted by a Citizen Dispute Settlement Center shall be nonjudicial and informal. No adjudication, sanction, or penalty may be made or imposed by the mediator or the center.

(5) Any information received by any person employed by, attending or present at, or volunteering services to a Citizen Dispute Settlement Center, which information is obtained from files, reports, case summaries, mediator's notes, or otherwise in the performance of the duties of the center, is privileged and confidential and shall not be publicly disclosed without the written release of all parties involved. Any research or evaluation effort directed at assessing program activities or performance may not compromise the confidentiality of such information.

(6) A Citizen Dispute Settlement Center may refer the parties to judicial or non-judicial supportive service agencies. [A center may not be held liable for any civil damages arising out of such action.]

(7) A council may seek and accept contributions from counties and municipalities within the geographical jurisdiction of the Citizen Dispute Settlement Center, agencies of the Federal Government, and private sources, and any other available funds, and may expend such funds to carry out the purposes of this section.

(8) Any Citizen Dispute Settlement Center in operation on the effective date of this act may, with the approval of the chief judge of the judicial circuit in which such center is located, continue its operations in its current form, except that subsections (5) and (6) shall apply to such centers.

Section 2. This act shall take effect July 1, 1979.

#### SENATE SUMMARY

**Authorizes the establishment of Citizen Dispute Settlement Centers as informal forums for the mediation and settlement of certain disputes. Provides for appointment of a council to adopt rules for the governance of a center. Prohibits a center from making or imposing any adjudication, sanction, or penalty. Provides for confidentiality. Authorizes a center to refer the parties to a dispute to certain other agencies. Authorizes a center to seek and accept funds from certain sources. Provides an exception for centers operating on the effective date of the act.**

Introduced by Assemblyman Levine

March 23, 1979

REFERRED TO COMMITTEE ON CRIMINAL JUSTICE

An act to add and repeal Chapter 3.5 (commencing with Section 1143.10) of Title 3 of Part 3 of the Code of Civil Procedure, relating to dispute resolution, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1186, as introduced, Levine (Crim.J.). Neighborhood resolution centers.

Existing law makes no provision for the resolution of civil claims or criminal matters by an informal resolution procedure.

This bill would establish the neighborhood resolution center program to resolve civil claims and certain criminal matters by an informal dispute resolution procedure conducted in resolution centers and administered and supervised under the direction of the Office of Criminal Justice Planning and subject to specified duties of the Neighborhood Resolution Centers Committee, which is established by the bill.

Under the program, resolution centers meeting specified criteria would be selected for funding by the committee from applications made to it by such centers.

Such centers would be required to furnish dispute resolution to the participants in accordance with specified guidelines established by the bill and rules and regulations promulgated by the executive director of the office and the committee.

This bill would require or authorize execution of written process agreements expressing the method for the resolution of the issues disputed, would authorize each center to subject the disputing parties to arbitration, would permit the disputing parties to enter into written resolution agreements during or after the dispute resolution process, would preclude the enforceability or admissibility in evidence of such written resolution agreements in a court or administrative proceeding unless such agreements provide otherwise, would provide for the confidentiality of memoranda, work notes or product, and case files of a mediator, and of any communications made during such dispute resolution process relating to the subject matter of such dispute resolution, and would make such material and communications privileged and not subject to disclosure at any judicial or administrative proceeding.

This bill would provide that its provisions shall not prohibit any person who consents to dispute resolution from revoking his consent, withdrawing from dispute resolution, and seeking judicial redress prior to reaching an agreement and would preclude the imposition of any penalty, sanction, or restraint for such person's action.

This bill would provide that a representative selection of centers be funded on the basis of applications which would be required to include specified information. The data supplied by each applicant would be required to be used to assign relative funding priority by the committee.

This bill would provide for possible payment structures to be used in funding eligible centers.

This bill would authorize the Office of Criminal Justice Planning to accept from any public or private agency or person any money for purposes of this bill, to receive and disburse federal funds for such purposes, and to perform all services and acts as necessary for the receipt and disbursement of such federal funds.

This bill would require each resolution center funded pursuant to the bill to annually provide to the committee such data regarding its operation as the committee requires.

Thereafter, it would require the committee to report annually to the Governor and the Legislature regarding the operation and success of resolution centers funded pursuant to this bill, to evaluate and make recommendations in such report regarding the operation and success of each resolution center, and to evaluate and make recommendations in such report regarding such operation and success.

This bill would provide that its provisions shall cease to be operative and shall be repealed on January 1, 1983, unless a later enacted statute chaptered prior to such date deletes or extends such date.

This bill would appropriate \$1,500,000 to the Office of Criminal Justice Planning for expenditure for the purposes of this act.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 3.5 (commencing with Section  
2 1143.10) is added to Title 3 of Part 3 of the Code of Civil  
3 Procedure, to read:

## 4 CHAPTER 3.5. NEIGHBORHOOD RESOLUTION CENTERS

## 5 Article 1. Legislative Purpose

6  
7  
8 1143.10. The Legislature hereby finds and declares:

9 (a) The resolution of civil claims can be unnecessarily  
10 costly, complex, and inadequate in a formal institutional  
11 setting where the parties involved are in an adversary  
12 posture, subject to formalized procedures with the  
13 attendant constraints and restraints.

14 (b) The resolution of criminal matters can be costly  
15 and complex and in many instances is inadequate in a  
16 formal judicial proceeding where the procedures and the  
17 attendant constraints and restraints are not equipped to  
18 adequately examine the circumstances surrounding  
19 criminal conduct to the end of protecting the interest of  
20 the public and those persons directly involved against the  
21 recurrence of such conduct except through the  
22 confinement of the accused.

23 (c) To assist in the resolution of disputes in a complex  
24 society composed of citizens of different ethnic, racial,  
25 and socioeconomic characteristics, there is a compelling  
26 need to explore informal methods of dispute resolution  
27 forums as alternatives to such structured judicial settings.  
28 Neighborhood resolution centers can meet the needs of  
29 their neighborhoods by providing private forums in  
30 which persons may voluntarily participate in the  
31 resolution of both civil claims and criminal matters in an  
32 informal, personal atmosphere without restraint or  
33 intimidation.

34 (d) While there are several neighborhood centers  
35 where dispute resolution is available for the resolution of  
36 such claims and matters, the lack of financial resources  
37 for existing centers limits their operation to the  
38 detriment of the public.

39 (e) Neighborhood resolution centers can themselves,  
40 and as guidelines to other dispute resolution centers,  
21 subserve the interests of the citizenry and promote quick  
22 and voluntary resolutions of civil claims and certain  
23 criminal matters.

24 1143.11. (a) It is the intent of the Legislature that  
25 programs funded pursuant to this chapter shall:

26 (1) Stimulate the establishment and use of  
27 neighborhood resolution centers to address the unmet  
28 need for alternatives to the courts for the resolution of  
29 certain disputes.

30 (2) Encourage continuing community participation in  
31 the development, administration and oversight of local  
32 programs designed to facilitate the private and informal  
33 resolution of disputes between and among members of  
34 the community.

35 (3) Offer models for dispute resolution which may  
36 serve as guidelines for resolution centers in other  
37 communities.

38 (4) Provide an alternative to the present costly and  
39 formalized criminal procedure system in certain criminal  
40 matters.

1 (b) The Legislature further declares its intent to fund  
2 neighborhood resolution centers in a variety of different  
3 types of communities.

4 (c) The Legislature further declares its intent that  
5 peace officers, prosecutors, and judges may refer certain  
6 criminal matters, particularly those involving juveniles,  
7 to such centers when:

8 (1) In their opinion, the underlying dispute can be  
9 resolved to the best interests of the public and of the  
10 persons directly involved without the necessity of court  
11 proceedings; and

12 (2) No criminal prosecution has been initiated, or if a  
13 prosecution has been initiated, it has been dismissed prior  
14 to referring the matter to a center.

15 Such referrals may be made in conjunction with the  
16 civil compromise provisions of Sections 1377 and 1378 of  
17 the Penal Code or the provisions of Section 1385 of the  
18 Penal Code authorizing a trial court to dismiss a criminal  
19 matter in the interest of justice.

## Article 2. Definitions

20  
21  
22 1143.12. As used in this chapter:

23 (a) "Office" means the Office of Criminal Justice  
24 Planning.

25 (b) "Executive Director" means the Executive  
26 Director of the Office of Criminal Justice Planning.

27 (c) "Center" means a neighborhood resolution center  
28 which provides conciliation, compromise, facilitation,  
29 mediation, arbitration, and other forms and techniques of  
30 dispute resolution.

31 (d) "Mediator" means that person or persons who  
32 facilitate the resolution of a dispute.

33 (e) "Committee" means the Neighborhood  
34 Resolution Centers Committee.

Article 3. Neighborhood Resolution Centers  
Committee

35  
36  
37 1143.13 (a) There is hereby established the  
38 Neighborhood Resolution Centers Committee, which  
39 shall consist of five members appointed by the Governor.

40 (b) The members of the committee shall serve for a  
41 term equal in duration to the neighborhood resolution  
42 center program established by this chapter.

43 (c) The members of the committee shall not receive  
44 compensation for their services under this chapter, but  
45 shall be reimbursed for their actual and necessary  
46 expenses incurred in performance of their duties under  
47 this chapter.

48 (d) The executive director shall serve as the executive  
49 secretary of the committee.

50 (e) The Director of Consumer Affairs and the  
51 Director of Housing and Community Development shall  
52 be ex officio members of the committee.

53 (f) The committee's duties shall include each of the  
54 following:

55 (1) Participation with the executive director in the  
56 formulation of rules and regulations for the neighborhood  
57 resolution centers program; and

58 (2) Such other powers and duties as are specified in  
59 this chapter.

Article 4. Establishment and Administration of  
Programs

60  
61  
62 1143.14. There is hereby established the  
63 neighborhood resolution center program, to be  
64 administered and supervised under the direction of the  
65 office, to provide funds pursuant to this chapter for the  
66 establishment and continuance of centers on the basis of  
67 established or continued need in the neighborhoods.

68 1143.15. A center shall be operated by a corporation,  
69 organized exclusively for the resolution of disputes,  
70 religious, charitable, or educational purposes, not  
71 organized for profit, and no part of the net earnings of  
72 which inures to the benefit of any private shareholder or  
73 individual. The majority of the directors of such a  
74 corporation shall not consist of active or retired attorneys,  
75 or active or retired judges or judicial officers, including

1 commissioners or referees.

2 1143.16. A center may be operated under an  
3 organization structure, other than a corporate structure  
4 under Section 1143.15, if the office determines that its  
5 organizational structure is one that is consistent with the  
6 purposes and intent of this chapter.

7 1143.17. All centers operated pursuant to this chapter  
8 shall be operated pursuant to contract with the office and  
9 shall adhere to all provisions of this chapter and to  
10 applicable rules and regulations established by the  
11 executive director and the committee pursuant to this  
12 chapter. The executive director and the committee shall  
13 promulgate rules and regulations to effectuate the  
14 purposes of this chapter, including provisions for periodic  
15 monitoring of the contract.

16 1143.18. A center shall not be eligible for funds under  
17 this chapter unless it complies with all of the following:

18 (a) It provides or will provide dispute resolution in a  
19 simple nonadversary format for a prompt resolution of  
20 certain civil claims and criminal matters.

21 (b) It is or will be located in the neighborhood it serves  
22 or will serve so as to be conveniently accessible to the  
23 participants, and offers or will offer dispute resolution at  
24 times convenient to the participants, including  
25 weekends, afternoons and evenings.

26 (c) It is or will be responsive to the particular needs of  
27 the participants, including, but not limited to, dispute  
28 resolution in languages other than English.

29 (d) It provides or will provide dispute resolution  
30 where the participants voluntarily agree to the dispute  
31 resolution so that the participants are brought together in  
32 a neutral and humane setting to define and articulate  
33 their own resolution of such civil claims or criminal  
34 matters.

35 (e) It provides or will provide neutral mediators who  
36 during the dispute resolution process shall make no  
37 decisions or determinations of the issues involved, but  
38 who shall seek informally to facilitate negotiations by the  
39 participants themselves to achieve a voluntary resolution  
40 of the issues.

1 (f) It provides or will provide dispute resolution either  
2 without cost to the participants or for a minor fee not  
3 exceeding the filing fee established by law for small  
4 claims court.

5 (g) It meets or will meet the other requirements of  
6 this chapter and the rules and regulations of the  
7 executive director and the committee.

8 1143.19. (a) As a condition for entering or  
9 conducting the dispute resolution process, the centers  
10 may, but are not mandated to, use any combination of the  
11 following:

12 (1) Require the disputing parties to enter into a  
13 binding written process agreement which expresses the  
14 method by which they shall attempt to resolve the issues.

15 (2) Prior to entering the dispute resolution process,  
16 permit the disputing parties to agree to enter into a  
17 binding written process agreement which expresses the  
18 method by which they will attempt to resolve the issues.

19 (3) After the dispute resolution process is underway or  
20 has been concluded, the disputing parties may enter into  
21 a written process agreement which expresses the method  
22 by which they are resolving, have attempted to resolve,  
23 or have resolved the issues.

24 (4) At any time, the center shall be empowered to  
25 subject the disputing parties to arbitration in accordance  
26 with Title 7 (commencing with Section 1280) of Part 3.

27 (b) During or after the dispute resolution process, the  
28 parties may enter into a written resolution agreement  
29 which sets forth the settlement of the issues and the  
30 future responsibilities, if any, of each party.

31 (c) A written resolution agreement shall not be  
32 enforceable in a court nor shall it be admissible as  
33 evidence in any judicial or administrative proceeding  
34 unless such agreement includes a provision which clearly  
35 sets forth the intent of the parties that such agreement  
36 shall be enforceable in a court or admissible as evidence.

37 1143.20. All memoranda, work notes or products, or  
38 case files of a mediator are confidential and privileged  
39 and are not subject to disclosure in any judicial or  
40 administrative proceeding. Any communication relating

1 to the subject matter of the resolution made during the  
2 resolution process by any participant, mediator, or any  
3 other person present at the dispute resolution shall be a  
4 privileged communication, and shall not be subject to  
5 disclosure in any judicial or administrative proceeding.  
6 Each center may maintain statistical records to be used  
7 for evaluation.  
8 1143.21. Nothing in this chapter shall be construed to  
9 prohibit any person who voluntarily consents to dispute  
10 resolution from revoking his consent, withdrawing from  
11 dispute resolution, and seeking judicial redress prior to  
12 reaching an agreement. No penalty, sanction, or restraint  
13 shall be imposed upon such person.

#### 14 Article 5. Application Procedures

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16  
17 1143.22. Funds appropriated or available for the  
18 purposes of this chapter may be allocated for programs  
19 proposed by eligible centers. Nothing in this chapter shall  
20 preclude existing resolution centers from applying for  
21 funds made available under this chapter; provided that  
22 such resolution centers are otherwise eligible, and that  
23 there are or will be unmet needs.

24 1143.23. Centers shall be selected by the committee  
25 from applications submitted to it.

26 1143.24. The committee shall require that  
27 applications submitted for funding include, but need not  
28 be limited to, all of the following:

29 (a) A description of the proposed community area of  
30 service and any other characteristics as determined by  
31 the committee.

32 (b) A description of available dispute resolution  
33 services and facilities within the defined geographical  
34 area.

35 (c) A description of the applicant's proposed program,  
36 by type and purpose, also including evidence of  
37 community support factors, the present availability of  
38 resources, and the applicant's administrative capability.

39 (d) Such additional information as is determined to be  
40 needed by the committee.

1 1143.25. Upon receipt of applications by the  
2 committee, the data supplied by each applicant shall be  
3 used to assign relative funding priority, on the basis of  
4 criteria developed by the committee. Such criteria may  
5 include, but are not limited to, all of the following in  
6 addition to the criteria set forth in Section 1143.18:

7 (a) Unit cost, according to the type and scope of the  
8 proposed program.

9 (b) Quality and validity of the program.

10 (c) Number of participants who may be served.

11 (d) Administrative capability.

12 (e) Community support factors.

13 1143.26. Factors to be considered in funding shall be  
14 the geographic area served by a center, the type of  
15 program it operates or proposes to operate, and the  
16 sponsoring group of the center.

#### 17 Article 6. Payment Procedures

18  
19  
20 1143.27. Upon the approval of the committee, funds  
21 appropriated or available for the purposes of this chapter  
22 may be used for a center's payment arrangements to  
23 allow for maximum utilization of the center. The design  
24 of the center payment arrangement may be developed at  
25 the local level and various methods of payment or  
26 reimbursement for dispute resolution costs may be  
27 employed. All such arrangements shall conform to the  
28 eligibility criteria of this chapter and the rules and  
29 regulations of the executive director and the committee.

30 1143.28. This chapter shall not be construed as  
31 requiring one type of payment structure. Options for  
32 payment processes include, but are not limited to, an  
33 hourly rate reimbursement based on actual hours of  
34 dispute resolution, unit reimbursement per participant,  
35 or direct grants for yearly operation or any combination  
36 thereof.

37 1143.29. The office may authorize a cash advance of  
38 up to 10 percent of a center's estimated grant to provide  
39 initial working capital.

40 1143.30. Notwithstanding any provision of this

1 chapter, no program funded pursuant to this chapter may  
2 include religious worship or instruction, nor may any  
3 funds be used for the general support of any private or  
4 church-related school system.

#### 5 Article 7. Funding

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7  
8 1143.31. The office may accept from any public or  
9 private agency or person any money for purposes of this  
10 chapter.

11 1143.32. (a) The office may also receive and disburse  
12 federal funds for purposes of this chapter, and perform all  
13 services and acts as may be necessary for the receipt and  
14 disbursement of such federal funds, including any funds  
15 available pursuant to the federal Comprehensive  
16 Employment and Training Act of 1973 (29 U.S.C. Sec. 801,  
17 et seq.).

18 (b) In the event federal funds are available under  
19 Title 6 (commencing with Section 13800) of the Penal  
20 Code for purposes of this chapter, the federal funds shall  
21 be received and disbursed by the office pursuant to such  
22 title for purposes of this chapter.

#### 23 Article 8. Reports

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25  
26 1143.34. Each resolution center funded pursuant to  
27 this chapter shall annually provide to the committee such  
28 data regarding its operation as the committee requires.  
29 The committee shall thereafter report annually to the  
30 Governor and the Legislature regarding the operation  
31 and success of centers funded pursuant to this chapter.  
32 Such annual report shall also evaluate and make  
33 recommendations regarding the operation and success of  
34 such centers.

#### 35 Article 9. Termination

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37  
38 1143.35. This chapter shall remain in effect only until  
39 January 1, 1983, and as of such date is repealed, unless a  
40 later enacted statute, which is chaptered before January

1, 1983, deletes or extends such date.

2 SEC. 2. There is hereby appropriated from the  
3 General Fund to the Office of Criminal Justice Planning,  
4 the sum of one million five hundred thousand dollars  
5 (\$1,500,000) for expenditure for the purposes of this act,  
6 provided that any expenditure for the costs of  
7 administration shall not exceed one hundred twelve  
8 thousand and five hundred dollars (\$112,500), except as  
9 otherwise approved by the Department of Finance.

END