

# LAW WEEK COLORADO

## Program Shifts Focus Outside Courtroom

By **Hannah Garcia**  
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WITH SPLITTING families facing an adversarial system, IAALS is searching for and developing ways for parents and children to spend less time in courtrooms and more time finding alternative solutions.

Through its Honoring Families Initiative, the Institute for the Advancement of the American Legal System has developed an out-of-court model for families undergoing the struggles of divorce and separation, although the program transcends legal boundaries.

The idea, which is currently being piloted at the University of Denver's Resource Center for Separating and Divorcing Families and started in September 2013, is unique to the organization and offers services including counseling, financial planning, legal advice and mediation on a sliding fee scale.

With the success of DU's center, Natalie Knowlton, who serves as the director of the initiative, said IAALS plans to aid in rollouts around the state and country of similar programs.

While IAALS is not part of the Sturm College of Law at DU, they are affiliated. IAALS began auditing DU's resource center in October and plans to catalogue data for three years while the law school runs daily operations.

### A here-and-now

Melinda Taylor, the executive director of DU's Resource Center, called the divorce court process "a traumatic experience" for litigants and their children. But with HFI's model, families are finding some help as they move through the system.

Since opening on Sept. 3, DU's Resource Center has provided services to more than 80 families and 120 children, Taylor said. The center also interviews children during the process to assess their needs.

"Everything about this model is unique," Taylor said.

The center has also conducted 55 mediations to date and 18 final orders hearings. Services are offered on a sliding scale ranging from \$15 an hour to \$50 depending on a family's income.

"One of the things we didn't predict — but it's quite interesting — is that people's perception of the justice system is very positive as a result of working with us," Taylor said. "They say things like they didn't want to go to the courts because they couldn't afford it or were afraid. When they end up working with us, as they've told us in exit interviews, all said, wholeheartedly, that the judge and the whole process improved because of it."

Judge Robert Hyatt has been



REBECCA LOVE KOURLIS

volunteering time on final orders, Taylor said.

"It is ideal for never-married parents who need to work out parenting time and any financial division," IAALS founder and executive director Rebecca Love Kourlis said. "Courts are even less responsive to them because they're not married and there is an increasing number of never-married parents in the system."

Kourlis said the system might be beneficial for same-sex parents as well for similar reasons. Knowlton said she was somewhat surprised by the diversity of participants, which have come from all socioeconomic and ethnic backgrounds, she said.

The program also marries two sometimes opposing fields in mental health and counseling and law in an interdisciplinary program. Students participate in anything from mediation to counseling with the help of supervising professionals after undergoing rigorous 80-hour training sessions and continuing education.

### A history

While the Honoring Families Initiative may be officially new in terms of naming, the intention has been alive and well for years.

Kourlis was appointed to the Colorado Supreme Court in 1995 after spending years as a trial judge, when she said it became clear to her that divorce cases are some of the most difficult for litigants and "the ones where the courts may do as poor a job in terms of trying to help them through the process."

"As I sat on the bench in divorce cases, it really hit me that the process is ill adapted to the needs of the families, and children in particular," Kourlis said.

She founded IAALS in 2006 on DU's campus after leaving the state's highest

court in January of that year after working for years trying to improve family law while still in the system. The institute has three other initiatives: the Quality Judges Initiative, which develops models for choosing, evaluating and retaining judges that "preserve impartiality and promote accountability;" the Rule One Initiative, which identifies and recommends court processes that provide greater access and efficiency; and Educating Tomorrow's Lawyers, which develops legal education curricula that focuses on ethics and practice.

"When I started IAALS, it was uppermost in my mind that I wanted to try to deploy our resources in this arena," she said. "It's been part of the plan from the very beginning. (Lawyer) Pam Gagle and I started developing the Honoring Families Initiative in 2009. Then in 2012, we really brought it to the fore and emphasized it, its shape and scope."

### A future

After the successes at the University of Denver, IAALS has eyes on expanding the out-of-court model.

"I would like to see it replicated in a number of different settings," Kourlis said. "I would like to be in a position to get some major funders around the country who would perhaps match funds for other groups. Ultimately, I would like that resource-rich model on a sliding fee scale basis."

The way the model works now, it runs parallel with the court system and not completely outside of it, with judges (like Hyatt at DU) providing legal judgments when required. Kourlis called it a "win-win on both sides" and said she would like to see the current demonstration project go into other communities, whether on a university campus or nonprofit area,

tailored its individual needs but based on the same basic components. The components listed by IAALS include: housing in a university or community-based center, maintenance of a collaborative relationship with courts, focus on children and provision of interdisciplinary services.

"The courts do not have the resources to be able to provide these additional services to these divorce litigants," Kourlis said. "Budgets are increasingly cramped as it is, so they can't make these additional services available on any basis, let alone on a sliding scale."

Knowlton said she would like to see similar programs in rural areas as well.

"We have a lot of interest from other universities. We understand that jurisdictions are going to differ on how it's implemented," Knowlton said. "As long as we can enforce those key components and that's the heart of the model."

"We're working on model-replication and we're going at that full speed," she added.

IAALS is also planning a first-of-its-kind qualitative study to examine trends among families who represent themselves in divorce and separation cases.

"Self-representing litigants are growing, and courts struggle with them because they have a higher need for information and services that aren't typical in the court or clerk paradigm," Kourlis said. "It's a challenge for the courts, and if that can be done in an out-of-court model, that's a benefit to the courts as well as the litigants."

Pro-se litigants are a growing demographic within the family court system, accounting for two out of three family court filings in California. Around 70 percent of family cases in Maryland involve at least one self-representing litigant, according to IAALS. The organization also said that divorce filings by pro se litigants is around 40 percent in Texas.

Knowlton will lead the project along with research director Corina Gerety, and will build on the research of Dr. Julie Macfarlane in Canada. The project is currently in the design phases with data collection from two jurisdictions slated for September and three others at the beginning of the year.

"The study will shed light, if you will, on what their expectations are and where the decision to represent themselves derives, whether it's a financial motivator or prior issues with attorneys or a do-it-yourself mentality," Knowlton said. "We'll be interviewing hundreds of litigants to develop that narrative. We're hoping that will better help us in how we serve them." •

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