

Single mothers swell caseload in Family Court

Star-Advertiser, July 29, 2013

The upswing in unmarried women giving birth means more parents are going to court to establish legal paternity or resolve disputes over custody of their kids, prompting a new mediation program and the hiring of another Family Court judge.

The caseload got so heavy that Senior Family Court Judge R. Mark Browning invited the Mediation Center of the Pacific to lend a hand last year by providing mediators to help settle such “paternity cases.” Results were so encouraging that the pilot mediation program was extended for a year starting this month.

“Paternity cases are challenging,” said Tracey Wiltgen, executive director of the nonprofit center. “Some of them are couples that lived together and had kids and a relationship. Others can be very young, and you’ve got grandparents who are concerned. Others can have a very short-term relationship, and there’s a lot of anger and distrust, but they are still parents of the child.”

MEDIATORS go to Family Court in Kapolei every Thursday, and judges can refer cases to the center’s downtown offices for mediation. Nearly 60 percent of paternity cases mediated in the last fiscal year, which ended in June, produced a written agreement between parties within three hours. Mediators handled 132 of those cases at the center and 42 at Family Court, according to Wiltgen.

Parental disputes that wind up in court focus on physical and legal custody of children, visitation, child support, medical insurance, education — the sorts of thorny questions that come up during divorce. Unlike divorce, however, there is no division of property. Hawaii doesn’t recognize common law marriage.

Family Court obtained legislative funding to hire a third judge in January for its Special Division, which handles paternity cases, temporary restraining orders, guardianships and adoptions.

“Two judges were handling 10,000-plus hearings a year,” Browning said, “and almost all of those hearings are evidentiary hearings. Paternities are a huge part of that.”

Across the nation, paternity cases have just grown astronomically because more people are having kids without getting married.”

Given the flood of cases, judges have little time or personal knowledge of each one, whereas mediators can take the time to really listen to the parents and help them forge their own agreement, participants say.

“The judge don’t want to hear it,” said Sime Shen, 38, a roofer whose custody case went through mediation at Family Court. “They want you to get to the point. With the mediator, I can tell the story and go on and on. I really appreciate the mediator. It didn’t cost me nothing.”

Shen, who was raised by his grandmother after his own parents broke up, said **he and his ex-girlfriend agreed to exchange their three children every week**, which was a relief to him because, he said, “I love my children very, very much.”

BECAUSE the parties come up with the agreement jointly, rather than having it imposed on them, disputes are less likely to come back to court, Browning said.

“Jumping into a court case is not only financially detrimental, it’s emotionally taxing on the children,” said Tiare Lando, who went through mediation last year with the father of her 9-year-old daughter. “Whatever a parent can do to be able to resolve issues in as peaceful and welcoming an environment as possible will greatly enhance your rate of success.”

She added, **“When you are co-parenting with somebody that you’re no longer in a relationship with, there are issues that are both emotional and sensitive.** Having unbiased mediators there to kind of guide you, to share these things in a very constructive way, really helps us parents agree on that one most important thing, which is the child.”

Mediations conducted at Family Court are free, while those at the center are kept affordable with sliding fees based on household income. In evaluations, more than 90 percent of participants described mediation as a “great” process, Wiltgen said, adding that it also reassures children.

“Kids are resilient, so if the parents don’t fight and there’s a clear plan so kids know what’s going to happen, they can do well,” Wiltgen said.

“Worries like ‘I don’t know where I’m going to be on my birthday,’ ‘How am I going to get to dad’s house?’ — all those things can be scary for kids. If they develop clear co-parenting plans, it benefits the child.”