

# Dispute resolution panel sets agenda

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SACRAMENTO — A new statewide Dispute Resolution Advisory Council, consisting of lawyers and mediation experts, Tuesday recommended broader use of alternatives to costly litigation in an effort to unclog overburdened courts.

In their first meeting since they were appointed in May by Gov. George Deukmejian and legislative leaders, council members elected Charles G. Bakaly Jr. of O'Melveny & Myers in Los Angeles as chairman and Lee R. Pettillon of Pettillon & Davidoff in Los Angeles as vice-chairman.

The council will establish temporary guidelines for dispute resolution programs and ultimately adopt permanent regulations. The council will be disbanded in 1989, and the program will be administered by the state Department of Consumer Affairs.

The council was created by lawmakers last year to allow counties to establish local programs. A second bill this session made technical changes in the earlier legislation and made it effective immediately upon the governor's signature last month.

The legislation will help counties start dispute resolution systems with a \$1 to \$3 surcharge on civil filings in municipal and superior courts. Five counties — San Francisco, Contra Costa, Marin, Alameda and Los Angeles — have adopted such programs. Other counties are expected to follow suit. The urgency legislation signed last month also allows rural counties with limited resources to form cooperative dispute resolution programs, sharing limited funding and utilizing a kind of "traveling circuit judge" concept in resolving disputes.

"Resolving disputes out of court is cheaper, faster and less intimidating," said the council's executive officer Mary-Alice Coleman. "It also is more sensitive to the wishes and feelings of the people involved than is the formal, legal process."

"There is a tremendous need to find relief for our overcrowded courtrooms," Coleman added. "There also is a need to create, on a statewide level, a new, alternative forum for conflicts that do not need the full-scale legal system for resolution."

She said studies of dispute resolution programs "indicate very high compliance rates — as high as 95 per cent in some cases," adding that the compliance rate is "far higher than the estimated 50-percent compliance rate in small claims court."

Many common consumer complaints that often result in litigation are particularly well-suited to dispute resolution — including disputes involving landlords and tenants, customers and merchants, employees and employers, roommates and neighbors, she said.

In New York, which has an extensive statewide alternative dispute resolution system, a 23.3-percent decrease in cases statewide was reported since the program began in 1984, with more than 56,000 referrals.

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In Pennsylvania, Coleman said, the use of mediation has decreased the civil calendar backlog from 48 months to 21 months.

A variety of dispute resolution programs exist in California. In Marin County, a mediation program within the small claims court adviser program resulted in a 17-percent drop in small claims filings during the 1984-85 fiscal year.

"We have a terrible crisis in the judicial system," Bakaly said in an interview. "In Los Angeles, no civil case can get to trial unless it's four years and 10 months since the filing . . . We've got to alleviate the congestion. This is one way. There are other ways."

After electing officers and attending to other routine chores of a first meeting, members of the council — with the aid of a "facilitator," Sacramento Municipal Court Administrator Dennis Jones — made a variety of suggestions, which will require further action by the full council at subsequent meetings, including these:

- Referrals to the alternative dispute resolution process should be made mandatory and included in filing forms.
- All forms of dispute resolution should be considered by the council, and flexibility is essential.
- Courts and law enforcement agencies should encourage dispute resolution, and changes are needed in court forms to refer people to dispute resolution. Guidelines for "non-coercive" dispute resolution should be provided, "particularly for prosecutorial agencies." Different types of programs should be permitted to flourish, with different sliding scales for fee payment depending on the jurisdiction and the program involved.
- The council should have liaison with the Judicial Council as well as the Administrative Office of the Courts.

Other members of the council are: Patricia M. Eckert of Dalton & Godfrey in Los Angeles; Michael Goldstein, director of California Community Dispute Services in San Francisco and the only non-lawyer; Lloyd R. Lowery of the Institute for Dispute Resolution at Pepperdine University Law School in Malibu; Larry Rosenthal, clerk to California Supreme Court Justice Marcus Kaufman in San Francisco; and T. Cole Williams, a member of the board of directors of the dispute resolution program in Pasadena.