



# Future Trends in State Courts

1999 - 2000



## Alternative Dispute Resolution Update

National Center for State Courts Staff

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For years people have speculated about what would happen if (or when) alternative dispute resolution (ADR) were institutionalized. In 1984, Robert Coulson, president of the American Arbitration Association, wrote, “[m]ediation must become institutionalized.”<sup>[1]</sup>

Now it appears that ADR is literally becoming part of the court. The growing use of ADR processes, particularly mediation, has led to a need for more space in courthouse facilities.<sup>[2]</sup> Meeting in hallways, various empty rooms, or other courthouse areas has not been a sufficient response to address the burgeoning needs of ADR programs. Creative problem solving, the hallmark of mediation, is in demand as program managers and court administrators work together to make room for ADR.

Additionally, the Alternative Dispute Resolution Act of 1998 (Act),<sup>[3]</sup> outlined requirements for the use of ADR in federal courts. The effect of the federal Act on state courts may be minimal; however, the extensive use of ADR in federal courts, particularly with respect to requiring parties to consider ADR, and the frequent use of the process late in the life of a dispute, should be instructive to courts and ADR practitioners at any level.

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<sup>[1]</sup> Robert Coulson, *Professional Mediation of Civil Disputes* (New York: American Arbitration Association, 1984) p. 20.

<sup>[2]</sup> Don Hardenbergh, Michael Griebel, Robert W. Tobin, and Chang-Ming Yeh, *The Courthouse: A Planning and Design Guide for Court Facilities* (Williamsburg: NCSC, 1999), first identified this as a trend.

<sup>[3]</sup> Alternative Dispute Resolution Act of 1998, Pub. L. No. 105-315, 112 Stat. 2993 (codified at 28 U.S.C. § 651-658 (1998)).

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