



AFCC eNEWS

BI-MONTHLY E-NEWSLETTER
VOL. 1 NO. 6
DECEMBER 2006

Happy Holidays from AFCC

by Peter Salem, AFCC Executive Director

This past year has been an exciting one for AFCC. We met the challenge of moving our Annual Conference from New Orleans post-Katrina and our members energetically debated the development of Model Standards of Practice for Child Custody Evaluation. While some members disagreed with the decisions to move the conference and approve the Model Standards, the AFCC Board of Directors made the decisions that it believes to have been best for the association members and the communities, children and families we serve. Through it all, the association continues to thrive and membership continues to grow.

[Continue message...](#)

AFCC 44th Annual Conference Conference Program and Hotel Registration Available Online

The conference program for AFCC's 44th Annual Conference, *Children of Separation and Divorce: The Politics of Policy, Practice and Parenting*, May 30-June 2, 2007 in Washington, D.C. is now available online. The conference features nearly 70 conference sessions and more than 150 presenters from Canada, Taiwan, the United Kingdom, Germany, Australia, New Zealand and the United States. The hotel rooms sold out last year, so please plan ahead and make your reservations early by reserving your room today at the Capital Hilton. AFCC has secured a special group rate of \$165 per night for single or double accommodations. Make your hotel reservations now!

[View Conference Brochure... \(PDF\)](#)

[Online Hotel Registration...](#)

Plenary Session Audio Available Online AFCC's Symposium on Child Custody Evaluations and Congress on Parent Education

Plenary sessions from *AFCC's Seventh International Symposium on Child Custody Evaluations* and *Seventh International Congress on Parent Education and Access Programs* in Atlanta, Georgia are available for free download in MP3 format for AFCC members. Members can access these sessions by logging on to the AFCC Member Center and clicking "AFCC Conference Audio." All sessions can be purchased individually or as a complete set by following the conference audio links on the [AFCC past](#)



DID YOU KNOW?

AFCC's membership has grown 80% since the summer of 2002. Nearly 3,000 professionals from across the globe are members of AFCC. If you are not a member, jump on the AFCC bandwagon and [join today!](#)

Why should I join?

[View our top ten list...](#)

OUR COLLABORATING ORGANIZATIONS

[ABA Center on Children and the Law](#)

[ABA Section of Dispute Resolution](#)

[ACR Family Section](#)

[International Academy of Collaborative Professionals](#)

[International Commission on Couple and Family Relations](#)

[National Association of Counsel for Children](#)

[National Council of Juvenile and Family Court Judges](#)

MARK YOUR

[conferences](#) page.

[Listen now...](#)

California Bar Associations Endorse Family Law Education Reform Project

The Los Angeles County Bar Association's Family Law Section and the South Bay Bar Association located in Torrance, California have both unanimously voted to endorse the Report of the Family Law Education Reform (FLER) Project. The Project, co-sponsored by AFCC and the Center for Children, Families and the Law of Hofstra University School of Law, seeks to close the gap between the teaching and practice of family law. The October 2006 issue of *Family Court Review* features the Report of the FLER Project and includes commentary, questions and analysis from family law leaders. The entire issue can be accessed by following the link below to the Blackwell Synergy Web site.

[Family Court Review...](#)

AFCC Resource Development Fund Update

2007 Innovation Mini-Grant Announced

The AFCC Resource Development Committee is pleased to continue the Innovation Mini-Grant Program by awarding a \$5,000 grant to sponsor a training program to conduct time sensitive issue-focused family assessments. The training will be for public or contract agency employees who currently conduct child custody evaluations. The AFCC Innovation Mini-Grant Program was created to assist in the development or expansion of innovative programs designed to improve the lives of children of separating or divorcing parents. The 2007 Mini-Grant application can be accessed by following the link below to the Resource Development Committee page.

[AFCC Resource Development Committee page...](#)

AFCC Offering Record Number of Scholarships to 44th Annual Conference - Application Available in January

Thanks to the outstanding support of last year's Annual Appeal, the AFCC Resource Development Committee is doubling the number of scholarships to AFCC's 44th Annual Conference, May 30-June 2, 2007 in Washington, D.C. Twenty scholarships, including local and international scholarships with travel stipends, will be offered to deserving practitioners. Look for the scholarship application on the AFCC Web site in January. An update on funded projects from last year's Annual Appeal can be accessed by clicking the link below.

[2005-2006 Development Committee update... \(PDF\)](#)

Annual Family Law Writing Competition

AFCC and Hofstra University School of Law are sponsoring the annual Family Law Writing Competition. The competition is run in cooperation with the editorial staff of *Family Court Review*, the academic and research journal of AFCC. The subject of entries may be within any area of family law, although topics which focus on international or interdisciplinary subjects of family law are especially encouraged. Articles should concentrate on a current legal issue and must have a strong foundation in legal

CALENDAR

AFCC 44th Annual Conference

Children of Separation and Divorce: The Politics of Policy, Practice and Parenting

May 30-June 2, 2007

Capital Hilton

Washington, D.C.

Featuring the Capitol Steps!

[Online Hotel Registration](#)

[Conference Brochure \(PDF\)](#)

[Capitol Steps \(Video\)](#)

AFCC Trainings

Parenting Coordination: Helping High Conflict Parents Resolve Disputes

Joan B. Kelly, Ph.D.

March 27-28, 2007

Loyola University New Orleans

New Orleans, Louisiana

[Training Brochure \(PDF\)](#)

Advanced Issues in Child Custody: Complex Family Violence, Alienation, Child Sexual Abuse and Attachment

Nancy Olesen, Ph.D.

March 29-30, 2007

Loyola University New Orleans

New Orleans, Louisiana

[Training Brochure \(PDF\)](#)

AFCC Chapters

Arizona Chapter Annual Conference

Arizona Rolls Out the Red Carpet

February 2-4, 2007

Sedona Hilton Resort & Spa

Sedona, Arizona

www.azafcc.org

California Chapter Annual Conference

Cutting Edge Issues: Multi-Disciplinary Dilemmas and Solutions

February 9-11, 2007

Mark Hopkins Hotel

San Francisco, California

www.afcc-ca.org

Missouri Chapter Annual

research. Submissions must be received by March 15, 2007. Last year's winning article, *Making a Mountain out of a Molehill: A Law and Economics Defense of Same-Sex Foster Care Adoptions*, by Richard R. Bradley, (J.D. expected 2007, University of Houston Law Center) is published in the January 2007 issue of *Family Court Review*. AFCC members are invited to read the article by logging on to the [Member Center](#) of the AFCC Web site and clicking "Family Court Review." For all the details on the 2007 Family Law Writing Competition please click the link below. [More info...](#) (PDF)

CASE LAW UPDATE

Jurisdictional Battles In Dissolutions Of Same-Sex Unions

by Barbara Glesner Fines, Ruby M. Hulen Professor of Law, University of Missouri-Kansas City

This past year, two lesbian mothers who had formed and then dissolved a civil union in Vermont battled for custody of the daughter born to their union. The Vermont trial court had first recognized both women as parents. Next, the biological mother sued in Virginia, where the trial court refused to recognize the Vermont decision. The Vermont Supreme Court then upheld its lower court, rejecting Virginia's jurisdiction. Most recently, the Virginia Court of Appeals ended the jurisdictional battle by holding that the Virginia trial court erred in failing to recognize that the PKPA prevented its exercise of jurisdiction and required it to give full faith and credit to the Vermont custody orders.

Janet Miller-Jenkins v. Lisa Miller-Jenkins (November 28, 2006). [View opinion...](#) (PDF)

For more daily case law and other legal developments, visit the [Family Law Prof Blog](#).

RESEARCH UPDATE

Does Having Children Affect Chances for Remarriage?

Courtesy of J.M. Craig Press, Inc.

When people divorce, they hope to someday have a new relationship. This desire is supported by the fact that divorced people are very prone to remarry. This article looks at the question of the affect of having children on the prospects for remarriage.

[Read more...](#)

FEATURED ARTICLES

Keystone Conference Final Report

by the Keystone Center and Mediate.com

This is the final report of "Consolidating Our Collective Wisdom Conference" held at Keystone, Colorado, October 8-11, 2006. The Keystone Report includes 10 challenges for the next generation.

[Read more...](#)

Judge Asks R.I.'s Highest Court to Rule on Gay Divorce

by Eric Tucker, The Associated Press, December 6, 2006

Conference

The Alienated Child: A Reformation of Parental Alienation Syndrome and the Use of Parenting Coordinator in High Conflict Cases

March 8-9, 2007

Crowne Plaza St. Louis Airport
St. Louis, Missouri

www.afccnet.org

JOIN AFCC

Are you a member?

[Join or Renew Today](#)

EMAIL UPDATE

[Subscribe](#), [Unsubscribe](#) or [Update Your Email Address](#)

AFCC will never share, distribute or publicize your email address.

PROVIDENCE, R.I. -- The question of whether a family court judge can hear a gay divorce case is moving to the state's highest court.

[Read more...](#)

INTERNATIONAL NEWS

Drops from Down Under

by Hon. Graham Mullane, New South Wales, Australia

This issue of *Drops from Down Under* features an update on an Australian researcher who raises concerns about the Family Relationships Centers being established by the Australian Federal Government. Other topics include property right laws regarding unmarried couples and same-sex couples, a disabled dad who has been denied access to see his son and an infidelity case regarding DNA testing.

[Read more...](#)

Canada to Host 5th World Congress on Family Law and Children's Rights

by Wendy Bryans, Ottawa, Canada

The eastern Canadian city of Halifax, Nova Scotia has been chosen as the site of the 5th World Congress on Family Law and Children Rights, August 23-26, 2009. The theme for this Congress is *The Child: Policy, Legislation and Legal Process Protecting Rights*. Since 1993, a group of Australian judges and lawyers have organized a Congress to discuss children's rights and family law issues every four years. AFCC has been a supporter of the Congress and in 1997 partnered the 2nd World Congress on Family Law and Children's Rights in San Francisco, California.

ABOUT AFCC eNEWS

AFCC eNEWS is a bi-monthly e-newsletter published by the Association of Family and Conciliation Courts (AFCC). *AFCC eNEWS* provides professionals with time sensitive and up-to-date topics including case law updates, research innovations and international news. Readers are welcome to forward this e-newsletter to interested colleagues.

[AFCC eNEWS archive...](#)

Web Site Version:

If you are having trouble viewing this email correctly, please view the Web site version by [clicking here](#).

Editor:

[David Vigliotta](#)



6525 Grand Teton Plaza
Madison, WI 53719
Phone: 608.664.3750
Fax: 608.664.3751
www.afccnet.org



MEMBER CENTER

- » [Family Court Review](#)
- » [AFCC Conference Audio](#)
- » [AFCC News](#)
- » [Member Directory](#)
- » [Member Resources](#)
- » [Chapter Resources](#)
- » [AFCC HOME](#)



Does Having Children Affect Chances for Remarriage?

Courtesy of J.M. Craig Press, Inc.

Goldscheider, F. and Sassler, S. [2006]. Creating Stepfamilies: Integrating Children in the Study of Union Formation. *Journal of Marriage and Family*, 68, 275 – 291.

When people divorce, they hope to someday have a new relationship. This desire is supported by the fact that divorced people are very prone to remarry. This article looks at the question of the affect of having children on the prospects for remarriage.

The authors hypothesized that having resident children reduced the chances that a parent would remarry. They also question whether women are more disadvantaged in this regard than men. The authors interviewed nearly 2,600 participants on two separate occasions 4 -7 years apart.

They found:

- Forty-three percent of women established new relationships, as did 57% of men.
- Men were five times more likely to reestablish relationships with women who had residential children than were women to do so with men who had their children with them.
- Custodial fathers were less likely to establish new relationships when compared to fathers who did not live with their children. When custodial fathers made new relationships, they were three times more likely than men without their children to marry women who had children themselves.
- When women did not live with their children, they were more likely to reestablish relationships with men who also did not live with their children.
- Men of higher socio-economic status were more likely to make new relationships with women who already had children.
- Men who had step fathers were twice as likely to reestablish relationships with women who had children as were men raised by their natural fathers.

Critical Analysis

This is the first report we have seen that looks at the relationship between having children and establishing new relationships. The sample was large, with the exception of the number of men who resided with their children.

Recommendations

A common assumption among divorced mothers with children is that they will have little chance of beginning new relationships. This study found that 43% of the women who had children began new relationships. Hence,

having children does not appear to be the barrier many seem to assume.

This study gives us some insight into current trends regarding the creation of blended families. Divorced men and women with children reestablish relationships at high rates. Those involved in family law should remain mindful of the potential issues that such reorganized families present.

For this as well as other valuable research visit J.M. Craig Press online at www.jmcraig.com or call (877) 960-1474. AFCC Members receive a 25% discount on all J.M. Craig Products.

J.M. Craig Press, Inc.,
12810 Hillcrest Road, Suite 217
Dallas, TX 75230
(972) 960-1472 or (877) 960-1474

Copyright © 1999 - 2006 J.M. Craig Press, Inc.

6525 Grand Teton Plaza, Madison, WI 53719
Phone 608.664.3750 Fax 608.664.3751 afcc@afccnet.org www.afccnet.org

[Search - Site Map](#)



MEMBER CENTER

- » [Family Court Review](#)
- » [AFCC Conference Audio](#)
- » [AFCC News](#)
- » [Member Directory](#)
- » [Member Resources](#)
- » [Chapter Resources](#)
- » [AFCC HOME](#)



AFCC Top Ten Membership List

There is no better way to keep pace with the rapidly changing environment for those who work with families in conflict. Your membership will provide you with the latest information and most knowledgeable resources, saving you valuable time and money.

1. **Networking:** AFCC offers the best interdisciplinary networking anywhere. AFCC members have influenced the practice of family law, mediation, custody evaluation and parent education more than those of any other organization. You will network, share ideas, and interact with an energetic group of family law, mental health and dispute resolution professionals from across the globe.
2. **Family Court Review:** AFCC's quarterly journal, *Family Court Review*, is the leading interdisciplinary academic and research journal for family law professionals. AFCC members receive a print subscription and online access to the entire collection, beginning with the first issue published in 1963. **A sample issue can be accessed at www.blackwell-synergy.com/loi/fcre.**
3. **Online Member Directory:** An international network of colleagues is available through the AFCC online searchable directory.
4. **AFCC Newsletters:** AFCC members receive a quarterly print newsletter, *AFCC NEWS*, and electronic newsletter, *AFCC eNEWS*, to keep you informed with the latest interdisciplinary topics on research, programs, services, international news and more.
5. **Continuing Education Opportunities:** AFCC conferences and training programs offer workshops on innovative programs and research from around the world. The [AFCC Annual Conference](#) features more than 150 presenters and 60 conference sessions on topics such as domestic violence, high-conflict families, collaborative law, parenting coordination and much more. AFCC members receive discounted registration rates to all AFCC events.
6. **Online Conference Audio:** From the comfort of your home or office, members can download and listen to AFCC Annual Conference plenary sessions in MP3 format.
7. **Parenting Coordination Network:** The AFCC PC Network is a group email networking list for professionals who serve as parenting coordinators or are interested in this role. AFCC members use this service to connect with each other, ask questions, share techniques and referrals and learn more about the role of parenting coordinators.
8. **Insurance Discounts:** AFCC members receive discounted rates on professional liability insurance through Complete Equity Markets, Inc.
9. **Online Member Bookstore:** Promote your book on AFCC's Web site! Available to the public, the [AFCC Online Member Bookstore](#) features books written or edited exclusively by AFCC members.

10. **Member Discounts:** AFCC members receive a 15% discount on all AFCC publications, a 20% discount on publications from Blackwell Publishing and a 25% discount with psychology research publisher, J.M. Craig Press.

For further information on any of these topics don't hesitate to contact the AFCC office at afcc@afccnet.org or (608) 664-3750.

JOIN TODAY!

6525 Grand Teton Plaza, Madison, WI 53719
Phone 608.664.3750 Fax 608.664.3751 afcc@afccnet.org www.afccnet.org

[Search - Site Map](#)



MEMBER CENTER

» [Family Court Review](#)

» [AFCC Conference Audio](#)

» [AFCC News](#)

» [Member Directory](#)

» [Member Resources](#)

» [Chapter Resources](#)

» [AFCC HOME](#)



Happy Holidays from AFCC

by Peter Salem, AFCC Executive Director

This past year has been an exciting one for AFCC. We met the challenge of moving our Annual Conference from New Orleans post-Katrina and our members energetically debated the development of Model Standards of Practice for Child Custody Evaluation. While some members disagreed with the decisions to move the conference and approve the Model Standards, the AFCC Board of Directors made the decisions that it believes to have been best for the association members and the communities, children and families we serve. Through it all, the association continues to thrive and membership continues to grow.

AFCC members take on the greatest challenges that separating and divorcing families present. Finding ways to address them is a challenge in itself. In doing so, we are guided by the organizational values, articulated by the AFCC Board of Directors:

- Collaboration and respect among professionals and disciplines;
- Learning through inquiry, discussion and debate;
- Innovation in addressing the needs of families and children in conflict;
- Empowering families to resolve conflict and make decisions about their future.

We have added many new members and many new perspectives, and AFCC has become a richer and more complex organization as a result. It is my hope that our values will sustain us and enable you all to continue with your remarkable work. It is truly a gift to have the opportunity to work with such talented and dedicated members. For that, I thank you.

Wishing you a peaceful and healthy new year.



MEMBER CENTER

» [Family Court Review](#)

» [AFCC Conference Audio](#)

» [AFCC News](#)

» [Member Directory](#)

» [Member Resources](#)

» [Chapter Resources](#)

» [AFCC HOME](#)



Drops from Down Under

by Hon. Graham Mullane, New South Wales, Australia

This issue of *Drops from Down Under* features an update on an Australian researcher who raises concerns about the Family Relationships Centers being established by the Australian Federal Government. Other topics include property right laws regarding unmarried couples and same-sex couples, a disabled dad who has been denied access to see his son and an infidelity case regarding DNA testing.

Concerns about New Family Relationship Centers

Arti Sharma, a researcher with the Center for Independent Studies in Australia, has recently raised concerns about the Family Relationships Centers being established by the Federal Government. The first 15 of 65 centers are open and have been operating for nearly six months. They provide free counseling and advice to couples with problems, and are intended as a first step for most separating couples before any litigation is commenced.

Mr. Sharma has expressed concern that the government has not clarified whether the centers and their staff are meant to make separation and divorce easier or make relationships work and keep marriages together. He says that some of the centers are displaying signs reading, "Keeping Families Together," and also other signs saying, "Helping Couples Separate."

Another concern Mr. Sharma expressed was that the Government was contracting out the operation of such centers, often to community or church organizations, by agreeing to operate under a national government label with contractual guidelines, putting at risk their separate reputations and values by becoming an arm of government. He also expressed concern that similar organizations that do not obtain contracts to operate Family Relationship Centers could be forced to abandon provision of relationship services because of the competition from the government services.

The government has in the past provided supplementary funding to such organizations to provide counseling and relationship services in the community. Mr. Sharma is critical of the government's apparent abandonment of this process in favor of the Relationship Centers. He suggests the government must conduct a comprehensive evaluation of the first 15 Centers before any other Centers are established, if at all.

Property Rights for De Facto Couples and Same-Sex Couples

Over the last two years the Australian states have jointly sought to have the Federal Parliament take over the legislating responsibility regarding the property rights of unmarried couples who separate. This responsibility is currently under the legislative jurisdiction of the state governments but each state proposed the referral of such powers to the Federal Parliament, which is provided for under the Constitution. However, all of the states were keen to see that such legislation included same-sex couples.

It subsequently became clear that the Federal Government, if the powers were referred to the Federal Parliament, would not sponsor or support

legislation to assist same-sex couples. Western Australia reacted by not referring the powers and has instead put in place state jurisdiction which provides rights to unmarried couples, including same-sex couples, and gives jurisdiction under such legislation to a state court. The government of South Australia has also indicated that it will not refer the power and proposes to bring similar legislation before the South Australian Parliament before the end of this year.

The remaining states have now referred their powers to the Federal Parliament. The result will be that, in all but South Australia and Western Australia, the Family Court of Australia will deal with de facto couples other than same-sex couples and there will be no legislation applicable to same-sex couples other than the general law, such as the law of trusts. In Western Australia and South Australia, there will be state laws that give the courts jurisdiction in relation to property disputes concerning unmarried couples, including same-sex couples.

Disabled Dad Denied Access

An intellectually disabled man was refused contact with his intellectually disabled son by the Family Court of Western Australia in November 2006.

The son has the emotional maturity of a 3-5 year old and does not know his natural father. The parents separated when the son was a baby and the mother refused to allow contact by the father. The father was seeking to contact the son only two supervised hours each month and was desperate to have a relationship with his son.

The mother opposed the application and argued that the son had nothing to gain from knowing his father and could suffer psychological harm through contact with him. The Judge described the mother as "simplistic," but said she was a responsible parent who provided well for her son. However, the mother had told the boy that another man was his father.

A clinical psychologist gave evidence in the proceedings and testified that the father was only "marginally independently functional, not capable of sustained employment and his IQ was so low that he sees the world in a different way." The psychologist said the father had little to offer the son as a guide or role model and "the best he could be is a playmate to him."

In her decision, Justice Julienne Penny found the boy could suffer "numerous adverse effects" from learning who his real father was, including "destroying his current sense of who he is and where he fits," and "distracting him from other basic skills he needs to develop to survive." She said, "I cannot find, given the father's limitations, that a meaningful relationship would result."

The decision was criticized in the media by Dr. Judith Cockram of Edith Cowan University's Center for Social Research, a specialist in intellectual disability. She said, "People with intellectual disability are just as likely to form meaningful relationships as others in the community." Additionally, "There is strong evidence that people with intellectual disability can parent successfully with support and I think children, with or without a disability, have the right to know who their parents are."

The father was interviewed later by the media and broke down in tears when talking about his heartache at losing his battle to see his son, and also losing his only photograph of the boy when his wallet was stolen several years ago. He said he still thinks about his son every day, even though he has not been able to see him for more than 10 years. The father expressed concerns that he does not know how his son is being cared for and how he can support him if he has difficulties.

The father's parents have recently announced that he is applying for legal aid to appeal the decision. They allege the decision is "discriminatory."

Infidelity, Paternity and DNA Testing

On November 9, 2006 the High Court of Australia dismissed a claim by Liam Magill against his former wife, Meredith, for damages for deceit.

The couple were married in 1989 and had one son. Soon after, Meredith commenced a long term affair. Her second son and daughter, whom Mr. Magill thought were his children, were in fact the offspring of Meredith and her lover. The marriage broke down in 1992, and in 1995 Meredith revealed her suspicions about the paternity of her second son after she was admitted to hospital with a nervous breakdown. DNA tests confirmed in 2000 that Mr. Magill is not the father of the two younger children. He

sued his wife for damages, claiming compensation for the severe anxiety, depression, money spent and loss of earnings wrought by her deceit.

In 2002, Mr. Magill obtained an award of damages of \$70,000 in the Victorian County Court. On appeal, the decision was overturned by the Victorian Court of Appeal. His appeal to the High Court was unanimously dismissed by six Judges. Three found there could be no legal action for deceit about paternity. The other three said there could be such an action, but only in exceptional cases and the Magill case was not one of them. All six Judges held there was no duty to disclose infidelity and the law could not provide the sort of moral justice Mr. Magill sought.

Within a week of the announcement of the High Court's decision, two members of Parliament, Alby Schultz and Sophie Mirabella, launched a campaign for estranged parents to have the automatic right to have their children's DNA tested to determine paternity. The Prime Minister said men should be entitled to "all the available medical science" to prove paternity and he was willing to examine the need for Law Reform.

At present, the position under the Family Law Act is that the Courts can only make an order for parentage testing procedures to be carried out where there are proceedings between the parties and the parentage of a child "is a question in issue" in the proceedings. There is a single Judge's decision that the requirement of the section is that there be some evidence to put parentage in issue; it is not sufficient that someone has a suspicion or just wants to "make sure."

6525 Grand Teton Plaza, Madison, WI 53719
Phone 608.664.3750 Fax 608.664.3751 afcc@afccnet.org www.afccnet.org

[Search - Site Map](#)



MEMBER CENTER

- » [Family Court Review](#)
- » [AFCC Conference Audio](#)
- » [AFCC News](#)
- » [Member Directory](#)
- » [Member Resources](#)
- » [Chapter Resources](#)
- » [AFCC HOME](#)



Judge Asks R.I.'s Highest Court to Rule on Gay Divorce

by Eric Tucker, *The Associated Press*, December 6, 2006

PROVIDENCE, R.I. -- The question of whether a family court judge can hear a gay divorce case is moving to the state's highest court.

Chief Family Court Judge Jeremiah Jeremiah agreed Tuesday to ask the Rhode Island Supreme Court if he has jurisdiction in the case of a lesbian couple who married in Massachusetts and are seeking a divorce in Rhode Island.

The case is precedent-setting since Rhode Island law does not address gay marriages, and the state has not taken any action to recognize same-sex unions made in Massachusetts.

"There's no indication that we can either hear same-sex marriages or same-sex divorces," Jeremiah said in deciding to refer the question to the supreme court.

Margaret Chambers and Cassandra Ormiston of Providence had been together for about a decade when they married in Fall River, Mass., after the Massachusetts Supreme Judicial Court ruled in 2003 that same-sex couples could not be denied marriage licenses. They wed in May 2004.

The couple filed for divorce in October, citing irreconcilable differences. They need to get divorced in Rhode Island since they live in the state.

"It isn't a situation I would choose by any means," Ormiston, 59 and retired, said of the publicity surrounding her divorce. "Divorce is hard enough without the added burden of being the test case."

Louis Pulner, a lawyer for Chambers, said the couple could be left with a void divorce decree if the Rhode Island Supreme Court -- sometime in the future -- decided he did not have jurisdiction in the case, and he asked Jeremiah to ask the supreme court to settle the issue now.

Ormiston's attorney, Nancy Palmisciano, argued the judge had jurisdiction and the right to rule immediately on the divorce. Afterward, she said she understood the judge's reasoning.

"The judge had to do what he felt was correct," she said.

Chambers did not attend the hearing.

It was not immediately clear when the supreme court would take up the issue, but Pulner said he was hoping the justices would put the question on the fast track for the couple's sake.

Janet Halley, a Harvard Law School professor who researches the issue, predicted other states will be forced to confront the question now facing Rhode Island and that the outcome would vary from state-to-state.

She said the couple's ability to divorce in Rhode Island was a separate question from whether gays had the legal right to marry there.

"All you have to do with divorce is recognize that there is a marriage, and then you can take jurisdiction and divorce it," she said. "That does not

change the completely separate body of law that establishes who may marry in Rhode Island."

Even so, Michele Granda, a staff attorney with the Gay and Lesbian Advocates and Defenders, said allowing gay couples to divorce in Rhode Island could open a door for them toward obtaining the varied other legal rights and benefits that accompany marriage.

She said Rhode Island has a long history of recognizing marriages considered valid in other states, and that same-sex unions should not be an exception.

"Rhode Island has had married same-sex couples in its midst for two and a half years now, and the general rule has been one of respect already," Granda said.

(Copyright 2006 by The Associated Press. All Rights Reserved.)

6525 Grand Teton Plaza, Madison, WI 53719
Phone 608.664.3750 Fax 608.664.3751 afcc@afccnet.org www.afccnet.org

[Search - Site Map](#)