AFCC NEWSLETTER

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AFCC Counts Down to Y2K in Newport Beach

AFCC members joined their California colleagues in Newport Beach, CA to begin the countdown to Y2K at the AFCC Southwest Regional and California Chapter Conference. *AFCC & Y2K: Getting the Bugs Out of Family Law* was held November 4–6, 1999 at the Newport Beach Marriott Hotel and Tennis Club. Nearly 300 participants joined in the fun.

The conference opened Thursday evening with a stirring and inspirational keynote address by Ronald Johnson, Executive Director of the National Family Life Education Center in Los Angeles. Mr. Johnson, a former New York gang member, graduated from Columbia University and was accepted to medical school when he decided to dedicate his life to working with children. Mr. Johnson discussed his work with teen fathers and mothers with the AFCC audience and received a standing ovation.

Friday morning's plenary session featured Drs. Janet Johnston, Joan Kelly, Margaret Lee and Matthew Sullivan presenting *Rethinking Alienation: Developing Protocols and Processes*. The presenters shared the work of a team of California researchers and practitioners who are re-examining the alienation of children from their parents in separation and divorce.

Conference workshops addressed a wide range of issues, including assessing allegations of child abuse and neglect, mini-evaluations, supervised visitation, parent education program standards, special masters, mediator dilemmas and the use of technology in family law. A special domestic violence training program attracted more than 120 participants.

The conference venue also offered participants the opportunity to relax during their free time. Some chose to "shop 'til they dropped" taking advantage of the Fashion Island Mall, located across the street. Others relaxed by the pool and in the hot tub, strolled or jogged along the beach or played tennis or golf in the beautiful southern California weather.

Development Committee Crowns Winners

The AFCC Development Committee sponsored three events in Newport Beach to support the association's Resource Development Fund. The events were the AFCC Tennis Tournament, a raffle for a free registration to AFCC's Annual Conference, May 31–June 3, 2000 in New Orleans and the Fabulous Friday Extravaganza

Larry Fong, AFCC member from Calgary, Alberta was the winner of the AFCC Tennis Tournament. Larry edged out runner-up AFCC Vice President Carole Brown who would have made John Newcombe and Rod Laver proud as Australia's representative. Margaret Lee, AFCC member from Greenbrae, CA and pre-tournament favorite, finished third despite a pulled hamstring. For his tennis prowess, Larry Fong was awarded a one-year membership in AFCC.

Marlene Joy, AFCC member from Arizona, was the winner of a registration to AFCC's 37th Annual Conference in New Orleans, LA.

Everyone who attended the Fabulous Friday Extravaganza was a winner as conference attendees traveled to the Irvine Improv Comedy Club for an evening of food, fun and laughter.

The three events raised nearly $1,000 dollars for the AFCC Resource Development Fund.

Thank You

AFCC would like to acknowledge the efforts of those who volunteered their time to make the Southwest Regional and California Chapter Conference a success: Vahan Hovsepian, California Chapter Conference Chair, Christopher Emley, George Ferrick, Rebecca Granneman, Shane Gunn, Chris Jones, Sherrie Kibler, Larry Lehner, Linda Louie, Michele MacFarlane, Denise McColley, Nancy Olesen, Rick Rothell, Jane Shatz, Jan Shaw, Phil Stahl and Sue Taninecz.

Membership Survey Coming Soon

AFCC will be conducting a survey of the membership in order to determine how the association can better meet your needs. AFCC members will be randomly selected to complete the questionnaire, which will be mailed in January 2000.

If you are among the AFCC members who receive the questionnaire, please take the time to answer the questions and return the survey. Your efforts are appreciated by the AFCC Executive Committee, Board of Directors, Membership Committee and Administrative Office.

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PRESIDENT'S MESSAGE

Phil Bushard, Reno, NV

The first six months of my term as AFCC President have passed quickly, probably because it has been a very busy time for the association. AFCC events have included hosting the Second International Colloquium on Child Protection and Dependency Mediation, in Columbus, Ohio and the Southwest Regional and California Chapter Conference in Newport Beach, California. We have conducted Professional Development and Technical Assistance Training Programs in Kansas, Iowa, Michigan and Wisconsin. Thank you to the members and staff who have worked so hard to make these events successful.

Many exciting activities and events are taking place over the next six months. Among them:

- We are undergoing an organizational assessment and examining all aspects of governance, committee and chapter structure, membership issues and technology needs. Our Hewlett grant funds have provided the services of an independent consultant whose report and recommendations will be addressed by the Board and Executive Committee in the new year. I look forward to reporting on this in the next newsletter.
- The Mediation Committee is busy preparing for the *Symposium on Model Standards of Practice for Family and Divorce Mediation*, February 26, 2000. Representatives from national and state mediation associations throughout the country will be coming to New Orleans to join AFCC and our co-conveners, the National Council of Dispute Resolution Organizations and the American Bar Association Section of Family Law.
- The Conference Committee has already begun planning our 37th Annual Conference, May 31–June 3, 2000 in New Orleans. The conference theme is *Alienation, Access and Attachment: Balancing Legal Issues with the Needs of the Family.* AFCC members are very excited about this conference. We have received numerous registrations and the program has not even been finalized. Early bird registrations continue to come in to the administrative office in Madison, WI.

Of particular interest to me this year is the work of the association's committees. AFCC committees provide an important link for AFCC leadership and members. Committees provide opportunities for member participation, serve as a forum for professional networking and support and are frequently the source of creative ideas that come to fruition at conferences or in publications such as the *Family and Conciliation Courts Review* and the *AFCC Newsletter.*

Within AFCC there exists an enormous resource: our members. Our committees serve as the conduit through which we can develop the organization's potential, benefitting not only our membership but also the children and families we serve. In an effort to support AFCC Committees I have developed the following strategies to help focus and coordinate their efforts.

1. AFCC Committees have been defined as either *Administrative* or *Professional Service* Committees. Administrative Committees are small committees which oversee management responsibilities. Administrative Committees include Awards, Chapter, Conference, Development, Diversity, Finance, Membership, Nominations, Professional Development and Technical Assistance and Publications.

   Professional Service Committees have broad mandates and exist to support specific professional groups within the association. These committees are open to all AFCC members and include Academic and Research, Court Services, Custody Evaluation, International, Judicial Officers, Lawyers, Mediation and Parent Education.
2. Written charges have been prepared for each committee. These include goals included in AFCC's strategic plan and goals identified by the individual committees.
3. I will be convening quarterly conference calls with all committee chairs. These calls are intended to create the opportunity for committees to update each other and coordinate projects and activities.
4. Professional Service committee chairs have been asked to actively recruit members from the AFCC membership roster. New members bring new ideas, new energy and vitality to our committees.
5. Members of the AFCC Board of Directors have been asked to serve as committee liaisons by serving on AFCC Committees. The link between committees and the AFCC Board of Directors is critical to carrying out the work of committees.

We have worked hard to develop a committee structure that creates opportunities

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Confidentiality in Dependency Mediation: Where Does It Begin and End?

By Susan Butterwick J.D., Dispute Resolution Center and Family Court of Washtenaw County, Ann Arbor, MI and John Lande, J.D., Ph.D., University of Arkansas at Little Rock School of Law

Participants at AFCC's Second International Child Protection and Dependency Mediation Colloquium in Columbus, OH, in September engaged in an animated discussion on the issue of confidentiality in dependency mediation. The conversation centered on what confidentiality really means to the courts, the mediators, the parties and other players in the "system" and how it is actually practiced in the special universe of child protection law. One thing became clear: there exist a wide variety of policies and practices in programs, a result which is largely attributable to varying state statutes, case law and local court rules.

Overview of Policies and Practices

Some mediation programs make broad promises of confidentiality. At least one program makes none at all. Most programs, even those with the broadest confidentiality provisions, make clear that new allegations of abuse or neglect are not protected. But even policies that do not require mediators to report new allegations still cannot promise absolute confidentiality if there are mandatory reporters present in the room, such as social workers, who have a professional duty to report abuse and neglect.

Some state mediation statutes may grant mediators a privilege, in which case it is important to know who "owns" the privilege. In some instances, a mediator may be entitled to refuse to testify in all cases. In others, the parties have the right to waive the privilege and compel the mediator to testify. Often, specific statutes that grant privilege will extend the privilege to cover work product, case files, and *all* communications relating to the dispute, except those materials and evidence otherwise subject to discovery that were not prepared specifically for use in mediation.

Policies also differ as to whether the parties are asked to agree to confidentiality among themselves in addition to the mediator's promise of confidentiality. In child protection mediation, however, it may be necessary and beneficial for parties to confer with others involved in the case who are not present at mediation, including family members, other agency personnel or therapists. It may not be realistic to ask parties to make confidentiality agreements among themselves. The question then begins to focus on the purpose for which parties need to share information learned in the mediation and who decides whether it is for a helpful or exploitive purpose.

Rules of Confidentiality

Federal Rule of Evidence 408, and state rules that mirror the federal rule, exclude discussions and negotiations in settlement conferences from being used as evidence in court. These rules are commonly extended to discussions held in mediation but application of these rules is limited in child dependency cases. This is because very few hearings in a dependency case rely strictly on rules of evidence. Typically only the adjudication hearing and the termination of parental rights hearing apply strict evidentiary rules and very little is excluded from other dependency hearings so that the court can base important decisions about a child's welfare on as much information as possible. Because of the courts' interest in allowing as much information as possible (hearsay or otherwise) to be brought to its attention during review hearings and in written court reports, some programs are now guided by local court rules created specifically as an exception to the general rule so that confidentiality in dependency mediation can be protected.

At the Colloquium's closing session, Hon. Leonard P. Edwards of Santa Clara County, CA, stated that he refuses to allow any reports of anything spoken in mediation in his court, even in dependency cases. Period. Judge Edwards' enlightened rulings are aspirational for those who practice in areas where judges are still learning about mediation or where a judge's interest in the information is greater than the desire to protect the mediation process.

At the same time, the relative newness of dependency mediation has found some programs working under conflicting state laws. In those jurisdictions, courts and programs are suddenly caught between laws that may abrogate any privileged communications in child protective proceedings, except those between attorney and client on the one hand, and laws that provide complete confidentiality for mediators and their work product, on the other hand.

Considerations Related to Confidentiality

Some contend that in an ideal world it would be practical and possible for the mediators and all parties to keep complete confidentiality and all courts would be able to follow and enforce Judge Edwards' rules. They argue that confidentiality is a cornerstone of mediation. It creates a safe, non-threatening environment where people can speak openly and honestly. Where it can be guaranteed in child dependency cases, confidentiality can open lines of communication that help the parties to see one another in new and different ways, sometimes fostering understanding of the parents' needs and concerns, sometimes fostering better compliance by parents and often creating better, more collaborative solutions for the welfare of the child.

On the other hand, statements of confidentiality may also be problematic in dependency cases, even in areas where confidentiality is mandated by non-conflicting laws. Because the players in these cases operate in a world where nearly all information gained outside of mediation is freely traded, reported and relied upon to make important decisions, it is questionable whether all the players can truly draw a clear line between information learned in mediation and information learned elsewhere. There may be "seepage" that occurs when information learned in mediation

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Renew Your AFCC Membership for 2000

Don't forget to renew your AFCC membership for the year 2000. Dues notices are being mailed this month and if you renew today you won't miss any issues of the *AFCC Newsletter* or *Family and Conciliation Courts Review.* AFCC welcomes all of our members back for Y2K!

Last Chance for Lifetime Membership Saving

There is just a short time remaining for members to take advantage of AFCC's pre-Y2K life member special. The life membership rate will be $1,200 as of January 1, 2000. If you join as a life member before January 1, 2000 you will receive the current $1,000 life membership *and* you may apply your 1999 dues toward your life membership fee. That represents a $325.00 savings!! Life memberships may be paid in three annual installments. For additional information on becoming a life member please contact:

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CONVERSATION CORNER

Dr. Joan Kelly

Joan Kelly

Dr. Joan Kelly is well known to AFCC members for her expertise in the area of children and divorce. For more than thirty years she has studied mediation and the impact of divorce on children's adjustment. Dr. Kelly has published more than sixty articles, including numerous contributions to the *Family and Conciliation Courts Review*, has served on several editorial and advisory boards and was a founding board member and President of the Academy of Family Mediators. She has received AFCC's Stanley Cohen Distinguished Research Award, the Joseph W. Drown Memorial Award in Recognition of Outstanding Services to Children from the AFCC California Chapter and the Distinguished Mediator Award from the Academy of Family Mediators. Dr. Kelly is a Fellow of the American Psychological Association.

Born and raised outside of Pittsburgh, Dr. Kelly attended Bucknell University in Lewisburg, Pennsylvania and earned an M.S. in child development and a Ph.D. in clinical psychology at Yale University. She then accepted a teaching position at the University of Michigan where she met her husband, James, also a Yale graduate, who was completing an internship in medicine. They relocated to California where they have remained ever since. Dr. Kelly and her husband have two children. Andy is a graduate student at the Kellogg School of Management at Northwestern University and Sarah is working toward her doctorate in American Art History at Columbia University. Andy and Sarah are also Yale graduates.

AFCC: You have been studying the effects of divorce on children over a thirty-year period. What do we know now that we didn't know in 1969?

Joan Kelly: From 1970 until 1990, the tendency was to blame all of children's problems on the divorce. What we now understand as a result of much better research, is that marital conflict is responsible for a great deal more of divorced children's adjustment problems than we used to believe. The symptoms we have seen in children of divorce are the same as those we now observe in children with married parents who are experiencing a high level of conflict.

AFCC: Does that mean that if there were no divorces we would see the same types of problems in children of married parents?

JK: Yes. Until the late 1980s we were not studying children in the married family. But when research began comparing children of married parents with those of divorced parents and examining a multiplicity of variables, we learned that within married families there are enormous variations in children's adjustment. The central variables which account for the differences within both married and divorced families are the levels of conflict, violence and the mental health of the mother. If you look at the research, the divorced children have more behavioral and academic problems than children whose parents are married, but the differences between the two groups are really quite small and they have been narrowing in recent years.

AFCC: Why do you think the gap is narrowing?

JK: One reason is that we have improved our measures and methodologies. Our society is also quite different now. Divorce no longer has the stigma it once did. There are more support systems, educational programs and information available for divorcing parents. Our community is simply less hostile to divorcing families. Among researchers, the prevailing view of children of divorce is that they can be characterized as resilient and that they experience pain, but not necessarily that they are pathological. Most well-designed studies show that by their early 30s there is no difference between young adults whose parents were divorced and those whose parents stayed married.

AFCC: What does all of this say about the efforts related to covenant marriage laws, the pro-marriage movement and groups like Divorce Busters?

JK: Dr. Paul Amato's research found that 10–12 year-old children of high conflict marriages had significantly *more* behavioral problems ten years later than a comparison group whose high conflict parents were divorced. But there are risks for children of divorce, especially adolescents, which are not related to divorce *per se*, but to related factors such as lower levels of parental monitoring, reduced economic opportunities and the reduced input of one parent. The kids who are in the best shape are those whose parents have low levels of conflict and stay married. Divorces among that group cause problems for youngsters probably because, unlike the children of high conflict families, these kids had nothing to gain by their parents divorcing. The problem is that none of these movements or political factions makes the distinction between children of parents in destructive marriages and nondestructive marriages.

AFCC: What is the impact of all of this information?

JK: It has really challenged our thinking about children of divorce and about divorce in general. More than half of the divorced children are well adjusted. Unfortunately, the media and others have focused on the small number of kids who have serious problems. As for researchers, rather than focusing on divorce, we now look for the conditions that create problems and those which accelerate improvement in child development.

AFCC: There has been quite a focus on the role of fathers lately. What does the research indicate?

JK: We've come full circle on fathers since the 1970s. Back then we said that frequent contact with fathers was associated with better child adjustment following divorce. In the 1980s several influential studies reported that there was no relationship between father contact and child adjustment. This was quite troubling for many clinicians. But in the 1990s—in fact in the last two years—there have been studies that demonstrate a significant relationship between a father's post-divorce involvement with his children and their positive adjustment. This occurs if the father's involvement is characterized as emotionally supportive and "active parenting" meaning discipline, problem solving and appropriate parenting behaviors. After divorce, fathers often drift away from active parenting because they spend minimal time with their kids. One very interesting finding from a national study is that when dads are more actively involved with their children's school the children do better academically, are less likely to be suspended or expelled and like school better.

AFCC: Where does AFCC fit in for you and the work that you do?

JK: AFCC really fosters an interdisciplinary approach to complex problems and that is absolutely necessary, particularly when dealing with people where there is violence, parenting deficiencies or substance abuse. Hearing different ideas and approaches is extremely informative and fosters a collaborative approach. For my own work it has been wonderful because it has provided a thoughtful forum to talk about children of divorce, mediation, the alienated child, child development and other challenges. AFCC has also created wonderful opportunities for me. After speaking at conferences I've received invitations to do training in courts and communities around the world, making it possible to help share information beyond the meetings and conferences in which we participate.

MEMBER PROFILE

R. John Harper, Hamilton, Ontario

R. John Harper

R. John Harper, AFCC member from Hamilton, Ontario, may be most well known by his colleagues for his ability to make them laugh. If that obscures some of his many accomplishments as a lawyer, that's okay with John. "We work in a very difficult field with a lot of anger and sadness," he said. "My experiences over the years have taught me that we must take our work seriously, but that it is every bit as important that we find a way to have fun as often as possible."

John was born and raised in Hamilton and began achieving at an early age. He was captain of his high school football team and played lead guitar in a rock & roll band. "We played songs by the Beatles, Dave Clark Five, Rolling Stones and just about anything from the British Invasion," John recalled. "We were called The Contels. I still don't know what that word means."

John attended St. Mary's University in Halifax, Nova Scotia. After two years of studying political science he was accepted to law school at Dalhousie University in Halifax. He was one of only five students accepted without completing undergraduate studies. John graduated from law school at age 22 and returned to Hamilton to article (a post-degree internship requirement of Canadian lawyers) with the firm of Lazier & Lazier. He was called to the bar at age 24 as one of the youngest lawyers in Ontario and began a solo general practice. "I was single and living at home so I could afford to try it on my own," he said. "At first when the phone rang it was usually my mother calling, trying to locate my brother. After awhile, I started earning enough to make a living."

John married and had two daughters. Angela is now a third year undergraduate studying psychology at Western University in London, Ontario. Sarah just completed her studies at a French-speaking high school in Ontario and is going to study massage and sports therapy.

Eventually John restricted his practice to family law and child protection cases. In 1986 he was hired to represent the Children's Aid Society (Ontario's child protection agency) in what would turn out to be the longest child welfare trial in Canada's history. "It was a case of satanic ritual abuse," John said. "It was very stressful. The police investigated and found nothing, but all the psychiatric evidence pointed toward serious abuse. There were death threats against me and I had to have special protection from the same police department I was taking on in court. We won the trial and were upheld on appeal and four months later, at the age of 38 I had a massive heart attack." Following his heart attack, John had a major lifestyle change. He began working out, taking care of himself and became focused on a positive approach to life.

John's involvement in AFCC began in 1983 at the annual conference in Toronto. He attended the 1985 annual conference in Vancouver where he ran into Stan Jaskot, an acquaintance from high school. Stan was also practicing law in Hamilton and the two became good friends. "In 1994 Stan and I attended the AFCC conference in Tucson. We planned to share a room but when we arrived the hotel didn't have our reservation. We spent a long time waiting by the hotel registration desk making everyone laugh, including the hotel staff." John and Stan came to the conclusion that there was no reason to stop the fun. It was in Tucson that they started exploring the formation of Harper Jaskot, a law partnership specializing in family law that came about in 1997.

John has been an active member of AFCC. He served on the Board of Directors from 1991-97 and was reelected again last year. He has been a presenter at numerous AFCC conferences, serves on the AFCC Finance Committee and in 1998 was appointed chairperson of AFCC's Development Committee. John led a very successful 35th Anniversary Campaign which culminated in the AFCC Silent Auction in Vancouver.

Back home John also maintains an active schedule outside of his practice. He is the legal consultant to the McMaster University Hospital Child Advocacy and Assessment Program, a multi disciplinary assessment team whose expertise is utilized to assess and advise on issues of child maltreatment and protection. He serves as assistant professor in the Department of Psychiatry and Behavioral Neuroscience at McMaster University. He also is vice-chair of the Consent and Capacity Board of Ontario, an interdisciplinary administrative tribunal which makes decisions about personal care, commitment and consent for treatment for those who are found incapable of making such decisions.

Outside of work, John keeps very active. His passion for alpine skiing frequently takes him to Lake Tahoe and on one occasion found him helicopter skiing in Panorama, British Columbia. In the summer months he enjoys sailing and once, with his family, sailed from Hamilton to Miami. John and Stan have also recently formed a band. There are no current plans for a Contels reunion tour, however. John may soon be curtailing some of his extra-circular activity however, as he and his second wife Franca are becoming parents in February.

One thing John will not curtail is his involvement with AFCC. "AFCC is a wonderful opportunity to expand personal and professional horizons," he said. "I have made great friends, found a business partner and have been influenced professionally in many ways. As AFCC members, we share ideas and create professional opportunities for one another that would not otherwise exist. When you get so much personal satisfaction out of your professional duties and relationships, it really can't be called work. I view AFCC as an organization that promotes that feeling and that, in turn, inspires the creativity that is needed to do what we do."

In Memory of Daniel Hamoline

Daniel Hamoline, QC, a member of the AFCC Board of Directors, died of cancer on November 25, 1999. A memorial service was held on November 30. An AFCC member since 1991, Daniel served on the Board of Directors since 1995 and was co-chair of AFCC's Diversity Committee.

Daniel had a private mediation and family law practice at Fifth Avenue Counseling, Mediation and Arbitration. He was a frequent presenter at AFCC conferences and at conferences of the Academy of Family Mediators and Family Mediation Canada. He was selected by AFCC's Professional Development and Technical Assistance Committee as one of six featured presenters at AFCC's First International Symposium on Child Custody Evaluations in 1994.

Daniel was deeply committed to his professional community and just a few weeks before his death he presented a two-day workshop at the Family Mediation Canada conference. On the day before his death Daniel received his Queen's Counsel designation from the Minister of Justice of Saskatchewan.

Danial Hamoline is survived by his parents, Annette and Leo Hamoline of Aberdeen, SK, his five sisters and his professional family at Fifth Avenue Counseling, Mediation and Arbitration.

Daniel's family asks that memorial contributions be made to the donor's charity of choice.

Parent Education Update

by Debra A. Clement, J.D., Mineola, New York

Legislative activity indicates that the nation continues to endorse parent education programs. In 1999, Arkansas became the 46th state to provide legal authority for parent education programs. Arkansas, which previously lacked any form of legal authority, adopted the statewide discretionary attendance model. In addition, New Jersey, which previously authorized attendance only by local court rule, and West Virginia, which previously embraced the permissive attendance model, both enacted statewide mandates for divorcing parties with minor children. Although legislative efforts recently failed in Maine, Michigan and New York, as of November 1999 proposed legislation is still pending in Rhode Island, Pennsylvania and Vermont.

There are five attendance models in effect throughout the United States. This article presents a brief description of each along with an accompanying chart detailing the circumstances in which each state authorizes courts to require attendance.

I. Statewide Mandatory Model

The statewide mandatory model, which is created by state statute, *directs* the courts to require the participation of *all* parents of minor children seeking a divorce or other specified actions to successfully complete a parent education program as a condition toward obtaining judicial relief.

Twelve states have adopted a statewide mandatory model: Arizona, Connecticut, Delaware, Florida, Iowa, Minnesota, Missouri, New Jersey, New Hampshire, Tennessee, Utah and West Virginia. As noted in the accompanying chart, for specific domestic relations actions the discretionary model has also been incorporated in Arizona, Florida, Minnesota, New Jersey, Tennessee, and West Virginia.

II. Statewide Discretionary Model

The statewide discretionary model, which is also created by state statute, *asks* the court to evaluate on a case by case basis, which parents should attend a parent education program. Thirteen states have adopted the statewide discretionary model: Arkansas, Colorado, Hawaii, Illinois, Maryland, Montana, Nebraska, Ohio, Oklahoma, Oregon, Virginia, Wisconsin and Wyoming.

III. Statewide Permissive Model

Created by state statute, the mandatory/discretionary model *grants permission* to the individual judicial districts to adopt a parent education program if they wish to do so. If it is not specified, each district may adopt the attendance model it prefers. Two states have adopted the permissive model: Louisiana and Washington.

IV. Local Court Rule Model

In some states, the "inherent power" of the judiciary (a power granted by the state's constitution) authorizes local courts to enact local rules that set additional requirements (e.g., program attendance) that must be satisfied before a divorce may be granted. Under this model, the attendance requirement may vary from one locality to another, depending upon the extent of authority each jurisdiction wishes to exercise.

Eighteen states authorize parent education programs by local court rule: Alabama, Alaska, California, Georgia, Idaho, Indiana, Kansas, Kentucky, Massachusetts, Michigan, Nevada, Mississippi, North Dakota, Pennsylvania, Rhode Island, South Carolina, Vermont and Texas.

V. Voluntary Attendance Model

In states that lack any of the above forms of legal authority, attendance at parent education programs is strictly voluntary. Five states lack any form of legal authority to require attendance: Maine, New Mexico, New York, North Carolina and South Dakota.

The Legal

State	Authority	Attendance
Alabama	Local Court Rule	Varies
Alaska	Local Court Rule	Varies
Arizona	Statute	Mandatory Discretionar
Arkansas	Statute	Discretionar
California	Local Court Rule	Varies
Colorado	Statute	Discretionar
Connecticut	Statute	Mandatory
Delaware	Statute	Mandatory
Florida	Statute	Mandatory Discretionar
Georgia	Unified Court Rule	Discretionar
Hawaii	Statute	Discretionar
Idaho	Local Court Rule	Varies
Illinois	Statute	Discretionar
Indiana	Local Court Rule	Varies
Iowa	Statute	Mandatory
Kansas	Local Court Rule	Varies
Kentucky	Local Court Rule	Varies
Louisiana	Statute	Varies
Maine	None	Voluntary
Maryland	Statute	Discretionar
Massachusetts	Probate and Family Court Dept. Standing Order I-99	Mandatory Discretionar
Michigan	Local Court Rule	Varies
Minnesota	Statute	Mandatory Discretionar
Mississippi	Local Court Rule	Varies
Missouri	Statute	Mandatory
Montana	Statute	Discretionar
Nebraska	Statute	Discretionar
Nevada	Local Court Rule	Varies
New Hampshire	Statute	Mandatory
New Jersey	Statute	Mandatory
New Mexico	None	Voluntary
New York	None	Voluntary
North Carolina	None	Voluntary
North Dakota	Local Court Rule	Varies
Ohio	Statute	Discretionar
Oklahoma	Statute	Discretionar
Oregon	Statute	Discretionar
Pennsylvania	Local Court Rule	Varies
Rhode Island	Admin. Order	Varies
South Carolina	Local Court Rule	Varies
South Dakota	None	Voluntary
Tennessee	Statute Statute	Mandatory Discretionar
Texas	Local Court Rule	Varies
Utah	Statute	Mandatory
Vermont	Family Court Rule	Discretionar
Virginia	Statute	Discretionar
Washington	Statute	Varies
West Virginia	Statute	Mandatory Discretionar
Wisconsin	Statute	Discretionar
Wyoming	Statute	Discretionar

Status of Parent Education Programs

Divorce & Dissolution	Legal Separation	Custody	Visitation	Paternity	Child Support	Post-decree Modification	Other
X	X	Contested Enforcement	Contested Enforcement	X*	X	Custody/Visitation	*If custody or visitation is an issue
X							
X	X	X	X			Custody/Visitation	
X	X	X	X		X	Custody/Visitation	
X							
X	X			X		Custody/Visitation	
X	X	X	X				Any Domestic Relations action
		X	X				
X						X	
X	X	X	X				
		X	X				
X							
X							*Applicable to all divisions except for Nantucket
		X	X		X		
		Contested	Contested				
X		X	X		X		
X	X					Custody	
X		X					
X		X	X			Custody/Visitation	
X	X	X			X		
X	X						
X	X	X	X				
X	X	X	X	X		X	Enforcement Guardianship
X	X	X	X			Custody/Visitation	
X	X	X	X				
		Contested	Contested				Contested
X						X	
X							
X							
X	X						
X	X	X	X	X		X	
X	X	X	X	X	X	X	
X	X	X	X	X	X	X	
X							

Helping Children Cope With Grief

Courtesy of Risa Garon, MSW, LCSW-C, Executive Director,
Children of Separation and Divorce, Inc, Columbia, Maryland.

Divorce is often compared with death because it is the end of the marriage between two former partners. What is often forgotten is that divorce is also viewed as the death of a family for children. Most children don't worry about who will love and care for them. Suddenly, in a divorce, children's sense of safety and security is shaken. While learning to live in two families, children may experience many short and long-term losses that can impact them for the rest of their lives. These include the loss of daily contact with a parent, the loss of a home, school, neighborhood friends, pets, extended family and financial security. They also may include the loss of a child focused environment with parents actively meeting children's age appropriate needs and the loss of childhood innocence.

Experts say that grief is the public mourning of loss. For children of divorce, the reality is that the losses are forever. Children often experience a range of grief-related emotions, such as anger, anxiety, denial, sadness and worry and that no matter how healthy a family is, children will forever feel "holes in their hearts."

Here are some suggestions on what we can do to help children with this roller coaster of emotions related to grief:

- Understand that grief is a continuous process. There is no ending, but rather new and old losses that require addressing.
- Understand that the losses will inevitably evoke pain. Time does not erase the losses but it can reduce the sharpness of the pain.
- Accept that children may have emotions and reactions to a family change that are different from parents. Acknowledge that each person in the family may see or hear things differently and that is okay.
- Encourage children to express their feelings through a variety of media with which they are comfortable: drawing, painting, clay, story telling, plays, poetry, music and verbal expressions.
- Provide safe environments in school, at home and in counseling to normalize the child's need to express feelings. Allow the child to have healthy "time outs" in these environments to grieve.
- Help children to explore their thoughts about grief and work with them to correct distortions such as:

  Only girls cry.
  If you allow yourself to cry, you'll never stop.
  No one understands.
  You will be disrespecting your parent if you cry.
  You can't be sad and enjoy other activities or people at the same time.

- Validate children's emotions.
- Provide concrete opportunities for children to cherish their memories of what once was and record new special times or moments at home. Make albums with photos and/or children's drawings or help the child find or make a treasure chest that is special just to him or her.
- Since parents are such important role models for their children, it is important that they too examine their distorted thoughts such as:

  My child can't see me sad.
  Needing support is a sign of weakness.
  I have to be everything to my child.
  My child should feel just like I do.

- Parents can share feelings with children as long as they don't make the children confidantes. Seeking support is a step in the process of growth.
- Realize that support works two ways. When parents seek support, they obtain new information and learn new ways of coping that assist them and their children. When parents ask a good friend or neighbor to watch their children for a little while, it also opens the door for friends and neighbors to do the same.
- No parent, regardless of family structure, can be everything to his or her children. Seek mentors on sports teams, counselors, teachers and extended family members.
- Allowing children to express their feelings, even though they may differ from a parent's, reassures children that their feelings count and that home is a safe, nonjudgmental environment to feel comfortable with their feelings.

Confidentiality in Dependency Mediation *(continued from page 3)*

"bleeds" out in spoken or unspoken ways that can ultimately penalize parties for having participated in an open, honest discussion. A case worker who routinely hears reports from family, friends and parents during the pendency of a case, may forget or simply disregard where s/he heard a particular piece of information that does not rise to the level of a new allegation of abuse or neglect. Thus, information given by the parent in mediation under the promise of confidentiality may be used or acted upon in such a way that actually impedes the progress of the case.

There is no way to undo the potential damage once information gained in mediation under the guise of confidentiality is used in subsequent reports or court hearings. There is no "fruit of the poisonous tree" exclusion doctrine, as is found in criminal procedure, so it is impossible to exclude negative use of the information learned from the mediation process which may have originally been presented as "safe" and "confidential" to the parties. Furthermore, even if people don't take notes out of the room the discussion affects agency attitudes, behavior, recommendations and questions in court hearings.

A "Miranda warning" of no confidentiality and a statement that whatever a party says may be used against him may be more realistic in some cases than a guarantee of confidentiality. On the other hand, while the caveat of no confidentiality may comport better with reality in some cases, it can also impede progress and prevent agreement for obvious reasons. More in-depth intake and screening, structuring mediation sessions around more private meetings, attorneys being present to protect their clients' interests, multiple meetings with different parties, shuttle diplomacy, etc. may become necessary in some cases.

Another related issue is whether those charged with protecting the best interest of the child, particularly attorneys who are officers of the court, are obligated to present to the court reasons why an agreement is not reached, particularly if the parents do not appear to be interested in working toward an agreement for the child's best interest.

It is also questionable as to how much a parent can really process when coming into mediation for the first time. Understanding confidentiality statements full of exceptions and caveats may be difficult for those parents who are angry, confused, have limited education or are low functioning. They may not be sophisticated enough to self-censor statements to protect their interests. Even professionals sometimes have a hard time not blurting out ill-considered statements. Sophisticated parties and attorneys who understand the system tend to act as if mediation is not confidential and try to avoid making statements against their interests, especially in joint sessions, and sometimes even in caucus. It is important that the mediator understand the obstacles in order to adapt or re-structure the session to protect the parties.

In conclusion, the best confidentiality policy is probably one that is simple to understand and yet reflective of reality. Admittedly, these can seem like mutually exclusive goals. In order to develop a confidentiality policy that is accurate it is critical to understand what the true reality is under the federal laws, state laws, state court rules, and local court rules and how the local players in the child protection system operate and practice under those rules. The risk is great that in deciding upon a policy simply because it sounds like a good policy and works well for other forms of mediation, without careful research into what it really means within the local child protection culture, parties could be misled and harm could result. For this reason, it may be better to make no promises of confidentiality. "Do no harm" is an important caveat for mediators in this important area of the law.

Member News

Donald Eisenberg, Treasurer of the AFCC California Chapter, is pleased to announce the formation of the Law Office of Donald E. Eisenberg. He may be reached at Alamitos Bay Marina, Congressional Place, 6700 E. Pacific Coast Highway, Suite 220, Long Beach, CA 90803-4217. Phone (562) 799-6457.

R. John Harper, AFCC member from Hamilton, Ontario, has received a part-time appointment as assistant professor in the Department of Psychiatry & Behavioral Sciences, Faculty of Health Sciences, at McMaster University in Hamilton.

Joan Kelly, AFCC member from Corte Madera, California, is retiring as executive director of the Northern California Mediation Center and from her mediation practice. She will continue to be active as a trainer, teacher, therapist and conference presenter and plans to devote more time to writing. Her new business address will be P.O. Box 7063, Corte Madera, CA 94976.

Phone: (415) 924-1407.
Email: jbkellyphd@mindspring.com

Forrest (Woody) Mosten, AFCC member from Los Angeles, California was selected Peacemaker of the Year by the Southern California Mediation Association. Woody was recognized for his commitment and work in the field of mediation.

Three AFCC members were recognized at the Wisconsin Association of Mediators (WAM) Awards Luncheon at the Eighth Conference on Emerging Issues in Mediation in Madison, WI. **Peter Salem**, AFCC Associate Director, received the Distinguished Service Award in recognition of outstanding service to the dispute resolution community. **Larry Kahn**, AFCC member from Milwaukee, WI, was awarded the President's Award for exemplary service to WAM. **Jody Melms Renaud**, AFCC member from Merrill, WI, was recognized for her service as WAM President.

President's Message

(Continued from page 2)

for members and provides AFCC with an effective conduit for ideas and information. It is my hope that this will involve more members and improve our association. There is only one missing ingredient: your participation. AFCC needs your commitment, ideas and energy to make it work.

If you are interested in finding out more about AFCC committees or volunteering your service, please feel free to contact any AFCC committee chair. Contact information is available in the summer edition of the *AFCC Newsletter*, on the AFCC website at www.afccnet.org/committees.htm or by calling the AFCC office at (608) 251-4001.

With warmest greetings for the holiday season and the Millennium.

UPCOMING EVENTS

December 6–10, 1999—Ann Arbor, MI
Basic Divorce Mediation
Contact: Zena D. Zumeta, J.D.
(800) 535-1155

January 7–9 & 15–16, 2000
St. Louis, MO
Family Mediation
Contact: Robert D. Benjamin, MSW, J.D.
(314) 721-4333

January 21–22, 2000—Los Angeles, CA
Case Consultation
Contact: Mosten Mediation Training
(310) 441-1454

January 28, 2000—Corte Madera, CA
Interviewing Children in Mediation and Special Master Cases
Contact: Nancy Foster
(415) 927-1422

January 28, 2000—Corte Madera, CA
The Use of Special Master in Custody and Parenting Disputes
Contact: Nancy Foster
(415) 927-1422

February 2—6, 2000—Eugene, OR
Mediating Divorce Agreement
Contact: The Mediation Center
541-345-1456

February 5, 2000—Corte Madera, CA
Marital Conflict, Divorce and Children's Adjustment
Contact: Nancy Foster
(415) 927-1422

February 15–19, 2000
Basic Divorce Mediation Training
Contact: Mosten Mediation Training
(310) 441-1454

February 17–18, 2000—Las Vegas, NV
Child Custody Evaluation Training
Contact: Alternative Solutions
702-646-2645

March 1–5, 2000—Boulder, CO
Divorce and Child Custody Mediation
Contact: CDR Associates
800-633-4283

March 3–5 &
March 17–19, 2000—Cherry Hill, NJ
Basic Divorce Mediation
Contact: Kenneth Neumann
(800) 613-4867

March 4, 2000
Working With High Conflict Families
Contact: Mosten Mediation Training
(310) 441-1454

March 7–11, 2000—Corte Madera, CA
Divorce Mediation and Conflict Resolution
Contact: Nancy Foster
(415) 927-1422

March 10–11, 2000
Operating a Profitable Mediation Practice
Contact: Mosten Mediation Training
(310) 441-1454

March 24–26, 2000—New York City, NY
Basic Divorce Mediation
Contact: Kenneth Neumann
(800) 613-4867

March 27–31, 2000—Chicago, IL
Divorce Mediation
Contact: Zena D. Zumeta, J.D.
(800) 535-1155

April 3–7, 2000—Boulder, CO
Divorce and Child Custody Mediation
Contact: CDR Associates
(303) 442-7367

April 6–8, 2000—San Francisco, CA
ABA Section of Dispute Resolution Annual Conference
Contact: Linda Baron
202-662-1687

May 31—June 3, 2000
New Orleans, LA
AFCC 37th Annual Conference
Contact: AFCC
(608) 251-4001

July 11–15, 2000z—Salt Lake City, UT
Academy of Family Mediators Annual Conference
Contact: AFM
781-674-2663

November 9–11, 2000
Kiawah Island, SC
Fourth International Symposium on Child Custody Evaluations
Contact: AFCC
(608) 251-4001

November 12–14, 2000
Kiawah Island, SC
Fourth International Congress on Parent Education Programs
Contact: AFCC
(608) 251-4001

May 9–12, 2001— Chicago, IL
AFCC 38th Annual Conference
Contact: AFCC
(608) 251-4001

Reminder!!

The AFCC Arizona Chapter will host its annual conference February 4–6, 2000 at the Doubletree Inn–Sedona Golf Resort. The conference theme is *Redefining Families: Controversy and Consensus.* Rooms at the resort are $94 per night. For more information contact Hon. Fred Newton at (520) 779-6598 or

fnewton@courts.sp.state.az.us

CALL FOR NOMINATIONS

AFCC Award Nominations

The Association of Family and Conciliation Courts Awards Committee is seeking nominees for the following awards, to be presented at AFCC's 37th Annual Conference in New Orleans, Louisiana May 31–June 3, 2000.

Distinguished Service Award: Presented in recognition of outstanding contribution to the field of family and divorce.

Stanley Cohen Research Award: Recognizing innovative and outstanding research in the area of family courts and family law. This includes an award of $400.

Irwin Cantor Innovative Program Award: Presented to an innovative program serving the family court community.

If you would like to nominate someone for one of the above awards, send a fax or e-mail of no more than two hundred words to the AFCC Administrative Office. Please specify the award for which you are submitting a nomination. Include your name, address and telephone number along with the same information for the nominee. Please include a brief statement as to why you believe the nominee to be a good candidate for the award.

The deadline for nomination is April 20, 2000. Please forward your nomination to:

AFCC Awards Nomination
329 W. Wilson Street
Madison, WI 53703
Fax: (608) 251-2231
E-mail: afcc@afccnet.org

AFCC Board of Directors Nominations

The AFCC Nominating Committee is seeking names of individuals to serve on the AFCC Board of Directors. Recommended individuals must be AFCC members and have an interest and knowledge of AFCC and its work.

Nominations must be received by February 1, 2000 in order to be considered by the committee prior to election at the AFCC Annual Conference in New Orleans, May 31–June 3, 2000.

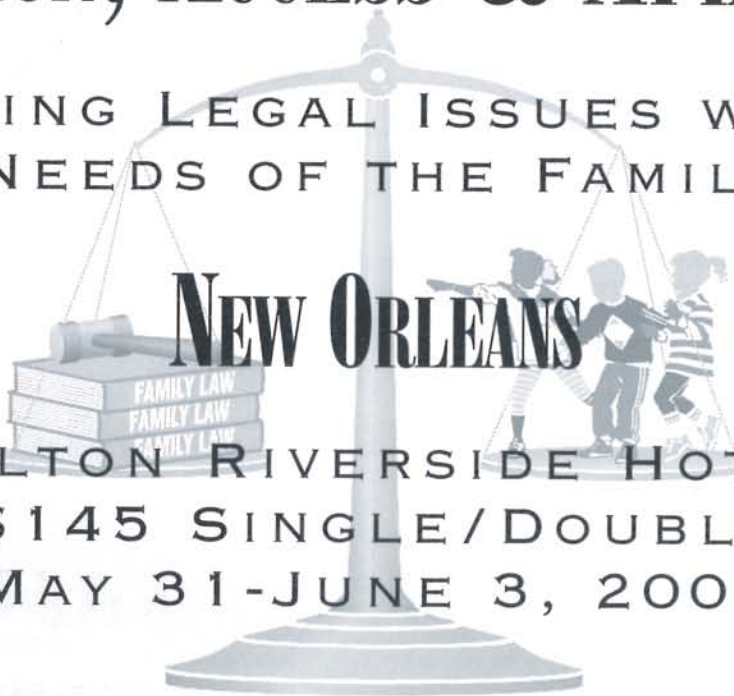
If you or another member you know is interested, please forward their name, contact information and resume to:

Robert Tompkins
Court Support Services Division
106 Elizabeth St.
Derby, CT 06418
Fax: (203) 735-6904
E-mail: Robert.Tompkins@jud.state.ct.us

AFCC 37TH ANNUAL CONFERENCE

ALIENATION, ACCESS & ATTACHMENT:

BALANCING LEGAL ISSUES WITH THE NEEDS OF THE FAMILY



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