



ASSOCIATION OF  
FAMILY AND  
CONCILIATION COURTS



eNEWS

## Season's Greetings from AFCC

*Peter Salem, AFCC Executive Director*

Since the advent of the *AFCC eNEWS* in 2006, I have used this space to wish AFCC members season's greetings and a happy, healthy new year. This year I write with some trepidation, because in the US 2016 is a presidential election year, and there is not much happy or healthy about that. Politics should promote healthy debate on big ideas, but more recently seems to be a forum for fear-mongering, vitriol and deception. The only acceptable outcomes are absolutes; collaboration and compromise are not fashionable. Sadly, this trend plays out at times in the politics of family law... [Read more](#)

## Seattle Program Now Available Online

**AFCC 53rd Annual Conference**

**Modern Families New Challenges, New Solutions**

**June 1-4, 2016, Sheraton Seattle Hotel**

The program brochure for the 53rd Annual Conference is now available online! Start planning your attendance today. Printed copies of the conference brochure will be mailed in January to AFCC members and colleagues. Online registration, the poster proposal submission form and the scholarship application will be available soon.

[See the program brochure](#)

## Minnesota Overhauls Best Interest Factors

*Mindy F. Mitnick, EdM, MA and Michael D. Dittberner, JD,  
Edina, Minnesota*

MONTHLY E-NEWSLETTER  
VOL. 10 NO. 12  
DECEMBER 2015

### Upcoming Conferences



AFCC 53rd Annual Conference

### AFCC 53rd Annual Conference

*Modern Families:*

*New Challenges, New Solutions*

June 1-4, 2016

Sheraton Seattle Hotel

Seattle, Washington

[More information](#)

Special thanks to our conference

In 2012, the Minnesota House of Representatives passed a bill providing for a presumption of joint physical custody with equal parenting time. Although that bill did not pass the Minnesota Senate, the Minnesota Legislature ultimately passed a bill providing for a presumption of at least 35% parenting time. Governor Mark Dayton did not sign the bill, but instead called for the proponents and opponents to come together and collaborate on legislation. In 2013, the Custody Dialogue Group was convened with representatives of the bench, bar, parents' groups, and legislators. [Read more](#)

## Parenting Coordination and Child Custody Trainings Loyola University, Chicago—March 2016

AFCC, in collaboration with [Loyola University Chicago School of Law's Civitas ChildLaw Center](#), is pleased to announce two new training programs, *Parenting Coordination: Practice Foundations*, with Matthew J. Sullivan, PhD, March 7-8, 2016, and *Intractable Issues in Child Custody Cases*, with Mindy F. Mitnick, EdM, MA, March 9-10, 2016. Continuing education credit is available. AFCC members receive a substantially reduced registration rate. Save even more when you register for both trainings. [Register today, see the training brochure](#)

## AFCC Scholarship Fund Helps Colleagues

The annual appeal to AFCC members is off to a strong start. There is still time to help your colleagues attend AFCC conferences by giving to the AFCC Scholarship Fund online or with your registration for the annual conference. Every gift—\$100, \$50, \$25, whatever amount feels right to you—makes more scholarships possible. Receiving your gift by the end of the year helps us plan for next year, and provides US taxpayers a deduction for the 2015 tax year.

[Give your gift today](#)  
[Thank you to 2015 donors](#)

## Call for Public Comment: Draft Guidelines

AFCC has posted an updated *Draft Guidelines for Evaluators Examining the Effects of Intimate Partner Violence on Families: A Supplement to the Model Standards of Practice for Child Custody Evaluation*. The task force that developed the draft guidelines is sponsored by AFCC in collaboration with the National Council of Juvenile and Family Court Judges (NCJFCJ), with consultation from the Battered Women's Justice Project (BWJP). The drafting task force is seeking additional input prior to completing its deliberation. The draft guidelines are only being made available for the purpose of discussion and feedback. Submit comments on or before January 4, 2016.

[Review and submit comments](#)

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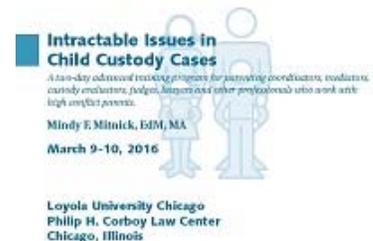


**AFCC 12th Symposium on Child  
Custody Evaluations**  
November 3–5, 2016  
Sheraton Atlanta Hotel  
Atlanta, Georgia

## AFCC Trainings



In collaboration with  
Loyola University Chicago School of Law's  
Civitas ChildLaw Center



**Parenting Coordination: Practice  
Foundations**  
Matthew J. Sullivan, PhD  
March 7 –8, 2016  
Loyola University Chicago  
Chicago, Illinois  
[More information, online registration](#)

## Unbundling Legal Services Guidelines from AFCC and IAALS

AFCC is pleased to share the results of a partnership with the Institute for the Advancement of the American Legal System (IAALS): a series of four guides on unbundled legal services or limited scope representation. Find [Unbundling Legal Services: Options for Clients, Courts and Counsel](#) in the Center for Excellence in Family Court Practice and on the Resources for Professionals page on the AFCC website and on the [IAALS website](#).

## Seeking an Editor-in-Chief for Family Court Review

AFCC seeks to appoint an editor-in-chief for *Family Court Review* who will work with the social science editor, managing editor and law student staff based at Hofstra University School of Law. *Family Court Review* is an interdisciplinary journal at the intersection of policy, research and practice that supports the mission of AFCC. *FCR* has over 5,000 subscribers worldwide. It is included in the legal databases of Westlaw and Lexis. It is cited regularly in court decisions and has influenced court rules and legislation on family law policy and practice.

[Access a complete description and application instructions](#)

## FRPN Publishes New Measure for Fathers' Engagement

The Fatherhood Research and Practice Network (FRPN) project team developed a new engagement measure designed for use in fatherhood programs to measure fathers' engagement with their children at different ages. It was developed using data collected from 646 low-income, mostly never-married fathers and has been validated with a sample of fathers very similar to those served by US responsible fatherhood programs.

[Read more](#)

## AFCC Releases a Free Book

### Ask the Experts from the AFCC eNEWS

A compilation of the frequent column from the *AFCC eNEWS*, "Ask the Experts," is now available in book form. [Ask the Experts from the AFCC eNEWS: Guidance from Leading Family Law Professionals](#) provides practice tips written by AFCC members and experts in the field. Areas covered include: intimate partner violence, alienation, high conflict, parenting coordination, mediation, parent education and many more. This compilation is available on the AFCC website on the Resources for Professionals page.

## Member News

AFCC President, **Judge Peter Boshier**, Wellington, New Zealand, has been sworn in as Chief Ombudsman of New Zealand. The

## Intractable Issues in Child Custody Cases

Mindy F. Mitnick, EdM, MA  
March 9–10, 2016

Loyola University Chicago  
Chicago, Illinois

[More information, online registration](#)

## AFCC Chapter Annual Conferences

### Texas Chapter Annual Conference

January 22, 2016

Thompson Conference Center,  
University of Texas  
Austin, Texas

[More information](#)

### Louisiana Chapter Annual Conference

January 22–23, 2016

Paul Hebert Law Center  
Baton Rouge, Louisiana

[More information](#)

### Arizona Chapter Annual Conference

January 29–31, 2016

Hilton Sedona Resort  
Sedona, Arizona

[More information](#)

### California Chapter Annual Conference

February 19–21, 2016

InterContinental Mark Hopkins  
San Francisco, California

[More information](#)

## Join AFCC

Are you a member?

[Join](#) or [Renew](#)

AFCC offers member benefits that promote excellence in practice.

[View member benefits](#)

## Ask the Experts

Is there a topic you would like to see covered by an AFCC Ask the Experts piece?

[Email your suggestion](#)

The opinions expressed in articles published or linked to in the *AFCC eNEWS* are those of the authors

Office of the Ombudsman is an independent entity answerable to Parliament, and the Chief Ombudsman heads the office. The role is one of governmental oversight, ensuring integrity and ministerial accountability. [See a photo](#) of Judge Boshier at the swearing in with Speaker of the New Zealand House of Parliament, Rt. Hon. David Carter, MP.

[Gabriela Misca, PhD](#), of the University of Worcester in the United Kingdom, received a Fulbright-All Disciplines Scholar Award through which she will spend 10 months in Boston, Massachusetts, hosted by the Center of Excellence for Children, Families and the Law at the William James College (formerly Massachusetts School of Professional Psychology), collaborating with both practice agencies and research partners in identifying best practice in supporting military families and assessing their cultural transferability. **Robin M. Deutsch, PhD, ABPP**, is the center's director and is sponsoring the award.

**Hon. Dianna Gould-Saltman**, Compton, California, was awarded the 2015 Hall of Fame Award by the California Association of Certified Family Law Specialists. The award is bestowed on a family law specialist who has made significant contributions to the specialty and who exemplifies the highest ethical and legal standards of family law practice.

[Family Mediation Center](#), co-founded by **Susan Hansen, JD**, Milwaukee, Wisconsin, has been recognized by the State Bar of Wisconsin as a Wisconsin Legal Innovator in 2015. This honor recognizes individuals and organizations that put new ideas to work to solve problems and improve the delivery of legal services to their clients and communities.

**Hon. Mark Juhas**, Los Angeles, California, was awarded the 2015 Outstanding Service to Family Law Award by the California Association of Certified Family Law Specialists, an independent nonprofit organization, composed of Certified Family Law Specialists in California, dedicated to promoting and preserving the practice of family law.

The third edition of [Essential Law for Social Work Practice in Canada](#), has been published. **Michael Saini, MSW, PhD**, Toronto, Ontario, Canada, is one of the authors. The book is a comprehensive guide to Canadian law and legal processes and examines all of the major legal situations social workers may encounter: child abuse, family violence, adoption issues, health care, mental illness, and immigration status to ensure that students are well-versed in their own legal rights and obligations and know what to expect when testifying in court.

and do not necessarily reflect the positions of the Association of Family and Conciliation Courts.

Readers are welcomed and encouraged to forward this e-newsletter to interested colleagues. [Learn more or subscribe](#)

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## **Recognize an AFCC Colleague**

AFCC awards were created to acknowledge the many important contributions made by individuals and organizations to enhance the lives of children and parents involved in family courts. Your nominations will help recognize and bring attention to these accomplishments. Even if your nomination is not selected this year, the act of nominating a colleague helps to highlight the broad range of achievements in the field and helps to cultivate a culture where individuals and organizations are acknowledged for their contributions.

Nominations for the following AFCC awards, to be presented at the Annual Conference in Seattle, will be accepted online through March 15, 2016:

- **John E. VanDuzer Distinguished Service Award** recognizes outstanding contributions and/or achievements by AFCC members;
- **Stanley Cohen Research Award**, sponsored by the Oregon Family Institute, recognizes outstanding research and/or achievements in the field of family and divorce; and
- **Irwin Cantor Innovative Program Award** recognizes innovation in court-connected or court-related programs created by AFCC members.

[Simple online nomination form, complete award descriptions and lists of past recipients](#)



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Since the advent of the *AFCC eNEWS* in 2006, I have used this space to wish AFCC members season's greetings and a happy, healthy new year. This year I write with some trepidation, because in the US 2016 is a presidential election year, and there is not much happy or healthy about that. Politics should promote healthy debate on big ideas, but more recently seems to be a forum for fear-mongering, vitriol and deception. The only acceptable outcomes are absolutes; collaboration and compromise are not fashionable. Sadly, this trend plays out at times in the politics of family law within and between various advocates for social policy, whether by those invested in father's rights, domestic violence issues, the role of the court and community in providing access to justice, or ethical and practice considerations within a given area. And just as a paralyzed legislature fails its citizens, political infighting in our field provides no benefit to the children and families we aim to help.

AFCC is certainly not immune to the influence of politics, but I firmly believe that our leadership and members remain predisposed toward the collaboration and compromise that seem to have fallen out of vogue. This is evidenced most recently by the work of two groups of members in particular: (1) The task force that is developing the *Guidelines for Evaluators Examining the Effects of Intimate Partner Violence on Families*; and (2) the *AFCC Researchers' Roundtable*, a team of seven researchers who have jointly written two articles on scholar-advocacy that aim to help family law practitioners and policy makers understand and apply social science free of political motivation. The articles will be published in April's *Family Court Review*.

I have had the good fortune to observe both groups in action and they have much in common. Both include some of the foremost leaders in our field. There did not seem to be any egos or personal agendas at the outset, but if they existed they were checked at the door. Group members learned from one another, changed their thinking throughout the respective processes and reviewed and re-drafted many times over. Both projects took much longer and required far more (volunteered) time than anticipated. In fact, they are still not quite complete. In the end, AFCC members will have access to highly relevant, thoughtful and nuanced work that gives full consideration to the enormous range of ideas, information and perceptions that exist in our field. These projects are truly the result of the melding of great minds. Many will appreciate the work, and others will find fault. That will push the next conversation forward.

In politics, simple solutions often have broad appeal, even though we know they can be dangerous. When it comes to families in conflict, simple solutions also bring risk. We know there are few absolutes. So we should applaud all of those who have crossed the aisle, considered differing perspectives and integrated their thinking. And while my trepidation about next year remains, I can look back to 2015 and identify many things for which I am profoundly grateful:

- The time, energy and effort of the people involved in the projects noted above and their embodiment of AFCC organizational values, in particular, collaboration and respect among professionals and disciplines, and learning through inquiry, discussion and debate;
- Those members who are engaged in AFCC endeavors, including task forces, conferences and committees, all of whom contribute enormously to our work;
- Every person responsible for AFCC chapters and the *Family Court Review*, both of which spread the AFCC message of collaboration worldwide;
- All of the organizations with whom AFCC partners and collaborates, for helping our members to learn from those with other perspectives;
- AFCC staff who manage the association in exquisite fashion and provide exceptional service to AFCC members; and
- An AFCC Board of Directors with bold vision and not only a willingness –but an insistence–that we stick our neck out and tackle the difficult questions on a regular and ongoing basis.

It is my belief and hope that all of this will continue in the coming new year, so that in spite of our political afflictions we might all enjoy a healthy and happy 2016.



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## Minnesota Overhauls Best Interest Factors

*Mindy F. Mitnick, EdM, MA, and Michael D. Dittberner, JD, Edina, Minnesota*

In 2012, the Minnesota House of Representatives passed a bill providing for a presumption of joint physical custody with equal parenting time. Although that bill did not pass the Minnesota Senate, the Minnesota Legislature ultimately passed a bill providing for a presumption of at least 35% parenting time. Governor Mark Dayton did not sign the bill, but instead called for the proponents and opponents to come together and collaborate on legislation. In his letter to the Speaker of the House, the Governor wrote, “Every marriage is different; therefore, each divorce has its own unique set of facts, conditions, and circumstances. Thus it is very difficult to codify one set of presumptions and preferences, which will apply to every family situation.” In 2013, the Custody Dialogue Group was convened with representatives of the bench, bar, parents’ groups, and legislators. They engaged a trained facilitator to help break the impasse that had existed for more than a decade. Using convergent facilitation to support collaborative decision-making, the group converted their arguments into shared principles and then began the hard work of crafting legislation. Agreeing that consensus would form the basis for the end product, the group worked over two years to propose family law changes upon which all agreed and which were subsequently passed by the legislature and enacted into law.

The group, with the help of Miki Kashtan of Bay Area Nonviolent Communication, developed a set of principles to guide their work, which included: (1) reduce family conflict; (2) focus on children’s needs; (3) provide safety for all; (4) maintain confidence in the judicial system; and (5) recognize the diverse contexts in which children live. The initial phase resulted in some changes to statutes in 2014, such as the recognition that there is no presumption for or against joint physical custody except in the case of domestic violence, and providing that parenting time modifications should reflect a child’s changing developmental needs. In late 2014, the group moved on to its second phase and invited custody evaluators to join the process.

The group agreed that in the revision of Minnesota’s Best Interest Factors for custody determinations, which resembled those in many states, they would shift their focus from the rights of parents to the needs of children. A core principle incorporated into the new statute is: “The court shall consider that it is in the best interests of the child to promote the child’s healthy growth and development through safe, stable, nurturing relationships between a child and both parents.”

An additional guiding principle now included in the statute requires that “the court shall consider both parents as having the capacity to develop and sustain nurturing relationships with their children unless there are substantial reasons to believe otherwise. In assessing

whether parents are capable of sustaining nurturing relationships with their children, the court shall recognize that there are many ways parents can respond to a child's needs with sensitivity and provide the child love and guidance, and these may differ between parents and among cultures." The Custody Dialogue Group sought explicit recognition of the greatly increased diversity in families since the first iteration of the best interest factors bill was passed many years ago.

The new statute, Minnesota Statutes, section 518.17 (2015), also explicitly states that a joint physical custody arrangement does not require an equal division of time.

The new factors are:

(1) a child's physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child's needs and development;

(2) any special medical, mental health, or educational needs that the child may have that may require special parenting arrangements or access to recommended services;

(3) the reasonable preference of the child, if the court deems the child to be of sufficient ability, age, and maturity to express an independent, reliable preference;

(4) whether domestic abuse, as defined in section 518B.01, has occurred in the parents' or either parent's household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs;

(5) any physical, mental, or chemical health issue of a parent that affects the child's safety or developmental needs;

(6) the history and nature of each parent's participation in providing care for the child;

(7) the willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time;

(8) the effect on the child's well-being and development of changes to home, school, and community;

(9) the effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life;

(10) the benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent;

(11) except in cases in which domestic abuse as described in clause (4) has occurred, the disposition of each parent to support the child's relationship with the other parent and to encourage and permit frequent and continuing contact between the child and the other parent; and

(12) the willingness and ability of parents to cooperate in the rearing of their child; to maximize sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes regarding any major decision concerning the life of the child.

A number of concepts have been introduced for the first time:

- Elimination of a solely historical perspective regarding care for the child with added consideration of a prospective view of future parenting;
- A move away from a “who did more” model for understanding parents’ roles in their child’s life;
- Explicit consideration of children with special needs;
- A broader consideration of assessing the child’s preference;
- A much more nuanced and complete analysis of domestic abuse and its impact on all family members;
- An analysis of the benefit and detriment of various time-sharing arrangements;
- An expanded consideration of the components of co-parenting that affect children.

Minnesota’s 2015 overhaul of its best interest factors is a historic achievement that can serve as a model for policymakers and family law/child development professionals in other states. The new factors, which switch the focus from the battle between the parents to understanding the needs of the children, will be of great assistance to professionals and judicial officers in assessing what type of custody and parenting time arrangements will best suit the needs of children. The collaborative process allowed stakeholders with diverse perspectives to arrive at a solution which encourages parents and children to develop and maintain strong, loving and safe relationships.

Click here (<https://www.flickr.com/photos/governordayton/sets/72157659953234518>) to see photos of the bill signing. The authors of this article were present. In the group photo Mindy Mitnick is second from the left and Michael Dittberner is in the center behind Governor Mark Dayton.

Mindy F. Mitnick, EdM, a psychologist practicing in Minneapolis, specializes in complex custody and parenting coordination cases. She has trained professionals throughout the US and Canada on the use of expert witnesses in child abuse and divorce cases, effective interviewing techniques with children, and the impact of psychological trauma. She is currently serving her second term on the AFCC Board of Directors.

Michael D. Dittberner, JD, is a family attorney in private practice with the law firm of Linder, Dittberner, Bryant & Winter in Edina, Minnesota. He is the legislative chair of the Minnesota Chapter of the American Academy of Matrimonial Lawyers and has served on the AFCC Minnesota Chapter Board of Directors.

Learn more about this topic at the AFCC 53rd Annual Conference in Seattle. The authors will present a workshop, *Minnesota's New, Child-Focused Best Interest Factors*, Friday, June 3, 2016.



An interdisciplinary and international association of professionals dedicated to improving the lives of children and families through the resolution of family conflict.

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