



ASSOCIATION OF
FAMILY AND
CONCILIATION COURTS



eNEWS

AFCC-AAML 2015 Conference Registration Open
Advanced Issues in Child Custody:
Evaluation, Litigation and Settlement
October 1-3, 2015
Capital Hilton, Washington DC

The conference program brochure and online registration are available for the AFCC-AAML 2015 Conference. Priority registration is available to AFCC members and AAML Fellows through June 30. You may join AFCC when you register for the conference to take advantage of the priority registration opportunity, as well as the discounted member rate. Registration opens to the public July 1, 2015. Early registration is encouraged—enrollment is limited and previous conferences have sold out.

[Register online, view the program brochure, make hotel reservations](#)

Final Days to Register—AFCC 52nd Annual Conference
Children in the Court System:
Different Doors, Different Responses, Different Outcomes
May 27-30, 2015, Hilton New Orleans Riverside

Make check-in even smoother by pre-registering online. If you are already registered, be on the lookout for attendee emails, which contain important information for accessing session handouts before the conference and helpful information about onsite logistics. Are you attending a full-day pre-conference institute on Wednesday?

There is still time to add an institute to your registration. [See the program brochure for institute descriptions.](#)

[Register today](#)

Pre-Banquet Fun—Silent Auction

Join conference participants Friday evening for the silent auction and reception. Beginning at 5:30pm, the silent auction kicks off the celebration portion of the annual conference. Bid on items donated by members, presenters, exhibitors and chapters. Chat with friends and colleagues while supporting AFCC special projects and initiatives, including the Access to Family Court Services Task Force and the Domestic Violence and Child Custody Evaluations Task Force. A cash bar will be available. [Here are just a few of the fabulous items.](#)

MONTHLY E-
NEWSLETTER
VOL. 10 NO. 5
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Upcoming Conferences



AFCC 52nd Annual Conference
May 27–30, 2015

*Children in the Court System:
Different Doors, Different
Responses, Different Outcomes*
Hilton New Orleans Riverside
New Orleans, Louisiana
[Program Brochure, Online
Registration](#)

**Special Thanks to Conference
Diamond Sponsor**
[OurFamilyWizard.com.](#)



Banquet Entertainment

David Fitzsimmons will wow us with his one-of-a-kind stand-up cartoonist act. Known as the “fastest draw west of the Potomac,” his cartoons and columns appear in the *Arizona Daily Star* and are syndicated in over 700 news publications. The award-winning writer and cartoonist has opened for PBS’s Mark Russell and has entertained conference goers across the US. [Visit his blog](#) to get a taste of what’s in store.

Ten Tips for Working with Interpreters and Translators in a Court Setting

Grace Hawkins, LCSW, Director, Conciliation Court, Arizona Superior Court, Pima County and Hon. Emile Kruzick, Superior Court of Justice, Toronto Region

Have you ever wondered what the difference is between an interpreter and a translator? Interpreters work in oral or sign languages between two people who do not speak the same language and are a cultural and linguistic bridge between those two people. They use informal spoken rules of language to convey the message orally. Translators work with the written word. They take a document in a source language (Spanish) and turn that into a document in the target language (English). They bridge the gap between two parties who do not speak the same language in writing and use the formal written rules of language to do so, including syntax, grammar, punctuation and idiomatic usage. Both interpreters and translators transfer meaning from one language to another language. Here are some tips for working with translators and interpreters in a court setting.

[Read more](#)

Special Immigrant Juvenile Status and Family Courts

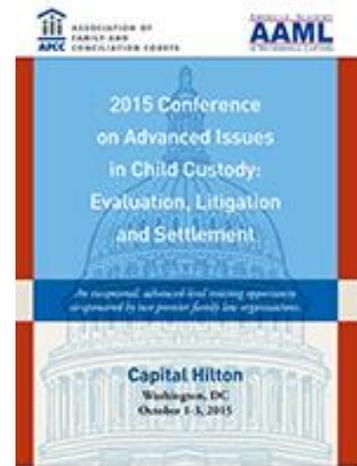
Howard Davidson, Director, American Bar Association’s Center on Children and the Law

State courts with jurisdiction over the care and custody of children play a critical role in protecting abused, neglected or abandoned immigrant youth. Special immigrant juvenile status (SIJS) is a form of humanitarian relief that can provide eligible youth protection from deportation and future harm. Involvement of a state court is unique to SIJS among forms of federal immigration relief; youth cannot even file an SIJS petition with federal authorities without first securing a state court order that includes specific findings. Particularly given the recent numbers of unaccompanied youth entering the United States, state courts must be aware of SIJS to protect particularly vulnerable immigrant youth in a timely and effective manner.

[Read more](#)

Chapter News

Congratulations to **Mary M. Ferriter, JD, MPA**, the new



AFCC-AAML Conference

Advanced Issues in Child Custody Evaluation, Litigation and Settlement

October 1–3, 2015

Capital Hilton
Washington, DC

[Program Brochure, Online Registration](#)

AFCC Regional Conference

Do You Hear What I Hear? Listening to the Voice of the Child

November 5–7, 2015

Hyatt Regency Columbus
Columbus, Ohio

[More information](#)

AFCC 53rd Annual Conference

June 1–4, 2016

Sheraton Seattle Hotel
Seattle, Washington

AFCC 12th Symposium on Child Custody Evaluations

November 3–5, 2016

Sheraton Atlanta Hotel
Atlanta, Georgia

AFCC Chapter Annual Conferences

Minnesota Chapter Annual Conference

July 16, 2015

University of Minnesota
Continuing Education Center
St. Paul, Minnesota

[More information](#)

Australia Chapter Annual Conference

August 14–15, 2015

Massachusetts Chapter President.

Family Court Review Authors Present in New Orleans

Guest editor of the April 2015 *Family Court Review*, Special Issue on Parenting Time and Co-Parenting for Unmarried Parents, Jessica Pearson, PhD, and authors of articles featured in this issue are part of the conference faculty for the AFCC 52nd Annual Conference in New Orleans. Read their articles before attending to get the most out of your sessions. Planning to read on the plane? Wiley has you covered. Read *FCR* articles on any device with enhanced article view. Authors scheduled to present in New Orleans are noted with an asterisk.

[Members log in to access FCR](#)
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Publication of the Month

Innovations in Interventions with High Conflict Families

This volume offers six distinct approaches to working with high conflict families. Chapters present the reader with the information necessary to implement, replicate, or expand the models featured—a must-read for every professional who works with separating and divorcing families. Editors: Linda B. Fieldstone and Christine A. Coates.

[View the appendices and table of contents](#)
[Purchase AFCC publications—members save 15%](#)

Conference of Interest

The NCJFCJ 78th Annual Conference will be held in Austin, Texas, July 26-29, 2015. The program features a wide range of juvenile and family law topics including child abuse and neglect, trauma, custody and visitation, judicial leadership, juvenile justice, sex trafficking of minors, family violence, drug courts, psychotropic medications, children testifying in court, detention alternatives, substance abuse, and the adolescent brain.

[More information](#)

Family Law in the News

Room for Debate: Collecting Child Support Without Making Matters Worse

Debaters: Jacquelyn Boggess, Center for Family Policy and Practice; Kezia Willingham, writer; Kenneth Braswell, Fathers Incorporated; Colleen Eubanks, National Child Support Enforcement Association

The New York Times

When the family of Walter Scott, who was shot in the back by a South Carolina police officer, said he may have fled for fear of being jailed for nonpayment of child support, it brought attention to the difficulties these obligations can pose for poor fathers. About 70 percent of the uncollected child support debt is owed by parents

Sydney Shangri La Hotel
Sydney, Australia
[More information](#)

Florida Chapter Annual Conference

October 1–2, 2015
Holiday Inn Tampa West Shore
Tampa, Florida
[More information](#)

Colorado Chapter Annual Conference

October 9–11, 2015
Beaver Run Resort
Breckenridge, Colorado
[More Information](#)

Ontario Chapter Annual Conference

October 23, 2015
Toronto Reference Library, Yonge Street
Toronto, Ontario
[More information](#)

California Chapter Annual Conference

February 19-21, 2016
InterContinental Mark Hopkins
San Francisco, California
[More information](#)

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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 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](#)

who make less than \$10,000 a year. But even those who can't pay are often jailed for noncompliance, making it harder for them to pay their debts and often costing them their jobs. How can child support be reformed so that children are provided for without lives of poor families being damaged?

[Read more](#)

This Divorce Arrangement Stresses Kids Out Most

Mandy Oaklander, TIME

Regarding the well-being of kids with divorced parents, the debate over what kind of custody arrangement is best rages on. But a new study, published Monday in the *Journal of Epidemiology & Community Health*, suggests that children fare better when they spend time living with both of their parents.

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1. Are they qualified? Ask for a resume that documents their training and education. A qualified professional will present their credentials when asked. An interpreter must have accreditation, pass the requisite exams and be qualified by the jurisdiction in which the interpretation takes place. In most jurisdictions the interpreter will be required to take an oath or affirm as to qualifications and proficiency in the two languages and have the ability to provide the service. Translators usually have an A and a B language. Sometimes translators work in only one direction, for example from Spanish to English. If they are bi-directional, they usually know both languages equally well. Be familiar with the certifications and qualifications that are required in your jurisdiction for interpreters and translators.

2. If there is one available, work with the court interpreter's office in your jurisdiction. There are times when the court provides the interpreter and times when the parties/lawyers are expected to do the hire. Many courts have court interpreters employed by the court to translate and/or interpret. They may know of interpreting or translation professionals who work in many different languages in your community who are qualified to do the work you are seeking. They are a valuable resource who may be able to steer you to other resources.

3. Before hiring an interpreter or a translator negotiate all of the payment and job details up front. Will they be paid by the job, by the day or by the hour if they are an interpreter? Will they be paid by the word, by the job or by the length of time it takes if

they are a translator? Will they submit an invoice at the end of their service? What is the deadline for the completion of the translation? Having the details worked out up front will avoid misunderstandings and surprises upon completion of the work.

4. Ask your interpreter up front what they need in order to do their job. They may need you to repeat things or look up a word. Oral interpreters do their job in the moment. Be aware that interpreter fatigue is a risk of the job as the task is both physically and mentally challenging. The court should be informed if fatigue becomes a problem or if and when a break is necessary in the proceeding. In some areas if the session is going to go longer than an hour, two interpreters may be required.

5. For interpreters, it is important to provide prep materials and as much information as possible about the case. Provide the interpreter with information about the assignment to make the task easier and more efficient. If you will be referring to handouts or court orders, give those to the interpreter in advance. An interpreter should make an effort to become familiar with the legal terminology particular to the assignment. Dialectic differences in languages exist and may create problems. The court interpreter should be informed not to hesitate to seek direction from the court if there are difficulties with idiomatic expressions, culturally bound terms related to the language/culture or legal terminology or anything else that might interfere with their ability to provide adequate service.

6. Conflicts of interest can occur in a case. By providing the interpreter/translator advance information on the case, conflicts of interest can be avoided. Interpreters should maintain a professional relationship with court staff, lawyers, parties and witnesses to avoid the risks of partiality. Family members and friends should not be used as interpreters. An interpreter must use the best skills and judgment and interpret accurately without embellishing, omitting or editing, and they must keep all information confidential.

7. Translators should have glossaries and informants available to them. Someone who is familiar with the document should be available as a resource to the translator so they have someone to talk to if there is a question related to what the document is trying to convey. A document is not a live person, so the only way to get meaning from it is through the written word. The translator may need to speak to someone to clarify what it is they are trying to have the document convey. And if you have a glossary of what the terms you use in your area mean, give that to the translator as well.

8. Give your translator the specifications on what the final document should look like. Are you going to format the document or do you want them to add the headings, bold title, or insert photos? Tell them up front what the end product should look like.

9. Whenever possible hire support and professional staff members who are bi-lingual. Do not use an interpreter, if possible. Especially in family law cases, people are sharing private and personal information. When people get emotional they often revert to the language they are most comfortable speaking. If a large portion of your clientele

speaks another language, having some staff fluent in that language will help to make the client feel more at ease.

10. Language lines are an option for those in less populated areas and for lesser known languages. There are some reputable telephonic interpreting services available. Do your research and if no other options are available in your local area, a language line may be a great resource for you. Just like a telephonic mediation or court hearing, you will miss verbal cues and body language, but with adjustments like asking for clarification and repeating back what was said for clarification, using remote interpreting will allow you to serve your clients.



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State courts with jurisdiction over the care and custody of children play a critical role in protecting abused, neglected or abandoned immigrant youth. Special Immigrant Juvenile Status (SIJS) is a form of humanitarian relief that can provide eligible youth protection from deportation and future harm. Involvement of a state court is unique to SIJS among forms of federal immigration relief; youth cannot even file an SIJS petition with federal authorities without first securing a state court order that includes specific findings. Particularly given the recent numbers of unaccompanied youth entering the United States, state courts must be aware of SIJS to protect particularly vulnerable immigrant youth in a timely and effective manner.

At the conclusion of this article is a request for your assistance. Over 68,000 unaccompanied children, largely from Central America, came to the United States in the 12 months ending August 31, 2014. Most were fleeing gangs, domestic violence, drug wars, violence, poverty, and other dangerous conditions. Most of these children and youth have been dispersed throughout the country, placed by the US Department of Health and Human Services, Office of Refugee Resettlement (ORR) with adult "sponsors." Sponsors are often extended family members, and are sometimes protective parents. These youth also may be or have been in federal custody: in ORR youth shelters, group homes, or foster homes. Youth in a variety of these settings could become involved in the family court (custody/guardianship), child welfare (dependency) or delinquency systems.

Some unaccompanied immigrant children and youth qualify for protection from deportation called Special Immigrant Juvenile Status (SIJS). For over 20 years, SIJS has provided eligible abused, neglected, and abandoned undocumented youth with a pathway to lawful permanent residency. SIJS is unique among forms of federal humanitarian relief because state courts play a critical role.

To be eligible for SIJS, a youth must be unmarried, under age 21 at the time he or she files a petition with US Citizen and Immigration Services (USCIS), under "juvenile" court jurisdiction, and in possession of a qualifying court order. The "juvenile" court that issues this order need not be the formal "juvenile court" but rather is broadly defined as a court with jurisdiction under state law to make determinations about the custody or

care of a child. The court may be a juvenile, family, probate, orphans, guardianship, dependency, delinquency, or other court.

State courts were entrusted with this critical role because of the expertise they have in areas concerning the care and custody of children. Although these courts may commonly hear the types of cases through which SIJS predicate findings are sought (custody, guardianship, etc.), some courts may feel uncertain about ruling on an “immigration” case. However, the state court’s role, as created by Congress, is not to issue an immigration determination—whether a youth receives SIJS is determined by federal authorities. The state court is charged only with using state law to evaluate questions of abuse, neglect or abandonment; parental reunification; and best interests of a child.

Qualifying Court Order

The qualifying court order upon which a youth’s eligibility for SIJS is contingent includes written factual findings that:

1. The child is dependent on the court or placed in the custody of a state agency, department, individual, or entity;
2. The child’s reunification with one or both parents is not viable due to abuse, neglect, abandonment or a similar basis under state law; and
3. The child’s best interest would not be served by being returned to the child’s country of origin.

The goal of SIJS—to protect undocumented abused, neglected and abandoned youth—has remained unchanged since Congress created this relief in the Immigration Act of 1990 (P.L. 101-649). But the requirements guiding state court predicate findings have been amended, most recently in the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (P.L.No. 110-457) (TVPRA). Notably, after the TVPRA, the youth does not need to be eligible for long-term foster care to qualify for SIJS. Now, the court considers whether eligible youth may be “dependent on a juvenile court” (although they need not be in the state’s custody) *or* placed by a state court in the custody of an agency or individual. That is, SIJS findings may be part of or based on a case granting custody or guardianship to an individual, a child welfare or delinquency case, an adoption matter, or other proceedings over which the state court has jurisdiction.

Another change brought about by the TVPRA is the court determination that the child’s reunification with one *or* both parents is not viable due to abuse, neglect, abandonment or a similar basis under state law. A youth living safely with one parent, but abused, neglected or abandoned by the other—whether while in the youth’s country of origin or in the US—is eligible for SIJS.¹ This is true even where, under state law alone, a child might not normally be declared dependent because one parent is fit. Similarly, this finding could be made where a child’s non-parent caregiver seeks guardianship of the

¹ See, e.g., *In re Marisol N.H.*, 979 N.Y.S.2d 643 (N.Y. App. Div. 2014).

child, because the non-abusing parent cannot viably care for the child. Termination of the parental rights of the parent with whom reunification is not viable is not required.

Finally, the court must also find that the youth's best interest would not be served by being returned to the youth's country of origin. Like any other best interest determination, this is a fact-specific, individualized assessment of a particular youth's medical and mental health needs, safety risks, educational opportunities, history, family connections, relationships with other supports, and other factors. The judge considering a request for SIJS predicate findings need not be an expert on conditions of the youth's country of origin, but rather be able to make a best interest determination based on the evidence presented.

The best interest determination, as well as the rulings on abuse, neglect or abandonment of the child and viability of reunification with one or both parents, should be included in the written order in a fact-specific and individualized matter, rather than a template restatement of the federal statutory SIJS language.

Evidence

Though courts hearing requests for SIJS predicate findings routinely hear cases involving some form of care and custody of a child, SIJS matters may depart from standard cases in the types of evidence available. Unaccompanied immigrant youth may have experienced traumatic events in their country of origin or on their journey to the US, and have great difficulty testifying about their experiences. Corroborating witnesses are rarely available, as these youth arrived in the US unaccompanied and the relative or sponsor with whom they currently live may not have first-hand knowledge of the abuse, neglect or abandonment the youth suffered. Additionally, depending on where the youth lived, official documentation such as birth certificates may be near impossible to obtain.

State courts hearing SIJS requests weigh the evidence that is presented as best they can. California, for example, has provided guidance specifically on the issue of evidence in SIJS matters (among many others). Recently enacted legislation directs that evidence in support of SIJS predicate findings "may consist of, but is not limited to, a declaration by the child who is the subject of the petition."²

Timing

A youth may file an SIJS petition with USCIS until he or she turns 21. But federal regulations³ require that the juvenile court retain jurisdiction over the case during the pendency of the petition. Where state courts' jurisdiction over youth ends at age 18 (as in many states), a youth seeking SIJS must obtain the predicate findings before he or she turns 18. (USCIS will not deny a pending SIJS application solely because the youth's state court order has expired because of the youth's age.)

² Cal. Sen. Bill 873 (Stats. 2014, ch. 685) (creating Cal. Code of Civ. Proced. sec. §155(b)(1)).

³ 8 C.F.R. § 204.11(c)(5). Federal regulations have not been updated since enactment of TVPRA. Any existing regulations in conflict with federal statute as amended by TVPRA are superseded by the Act.

Conclusion

Despite its availability for maltreated immigrant youth for over two decades, SIJS remains an underutilized form of relief. (Less than one-third of the federally-created cap on SIJS certifications were issued in 2010.) Many youth and caregivers remain unaware of the option. Additionally, only about 32 percent of minors in removal proceedings in immigration court are represented; the rest face experienced government attorneys alone. The recent increase of unaccompanied youth arriving in the US has led to a greater awareness of SIJS, and may lead also to improved legal representation of minors and greater protection for abused, neglected and abandoned youth.

Contact for judges and others who would be interested in working with you on this topic.

The American Bar Association's Working Group on Unaccompanied Minor Immigrants was created to address the immigration crisis affecting unaccompanied minors and the critical need for additional pro bono lawyers to ensure children are provided legal representation in immigration proceedings. The Working Group is developing free webinars for state court judges on SIJS. If you are a judge (or are part of a court) that is interested in advising the Working Group on those trainings, or simply want to learn more about this issue, contact Cristina Ritchie Cooper at cristina.cooper@americanbar.org.

The Working Group can also match volunteer attorneys in your jurisdiction with immigration legal services providers in need of pro bono family law partners; providers are particularly seeking family law partners in Newark, NJ, and Baltimore, MD. Interested attorneys can submit a volunteer form at www.ambar.org/ican. More information can also be found at www.uacresources.org and www.ambar.org/cwimmigration.

Howard Davidson is the Director of the American Bar Association's Center on Children and the Law, leading a large staff in work on child welfare law and policy improvement. Mr. Davidson has been actively involved with the legal aspects of child protection for 40 years and has authored many legal articles and book chapters related to child maltreatment and the law. A Steering Committee Member of the Center on Immigration and Child Welfare, Mr. Davidson is a leader in the field of immigration and child welfare, and writes and presents regularly on the topic. He also has served as chair of the US Advisory Board on Child Abuse and Neglect, is a founding board member of the National Center for Missing and Exploited Children and is also on the governing boards of ECPAT-USA, a national group focused on law and policy reform related to child trafficking and sexual exploitation, and the National Foster Care Coalition.