



AFCC eNEWS

MONTHLY E-NEWSLETTER
VOL. 3 NO. 4
JULY 2008

Discover Innovations and New Ideas in Albuquerque

"The Custody Evaluation Symposium challenged me to constantly push myself to be a better custody evaluator and helped provide me with the tools to do that."

—Laura Kagan, Ph.D., Albany, New York

Make plans now to join more than 300 evaluators, parent educators, judges, lawyers, mediators, parenting coordinators and others at AFCC's *Eighth International Symposium on Child Custody Evaluations*, September 25-27, 2008 and *Eighth International Congress on Parent Education and Access Programs*, September 26-27, 2008 in Albuquerque, New Mexico. The *Symposium* features nearly 70 presenters, 24 workshops and four challenging institutes on custody evaluation, psychological testing, domestic violence and parenting coordination. The *Congress* will bring together a vibrant group of parent educators and will explore domestic violence and parent education, techniques to expand your practice, new ways of teaching, educating parents online, high conflict families and more.

[More information...](#)

Special Issue of Family Court Review Featuring Domestic Violence and Family Courts Online

The July 2008 *Family Court Review* featuring outcomes from the AFCC and NCJFCJ Domestic Violence and Family Courts Project is available online. AFCC members and, for a limited period of time, non-members are invited to read the special issue in its entirety online. The highly anticipated special issue features articles co-authored by interdisciplinary experts from the domestic violence advocacy and family courts community. The issue addresses topics including terminology, differentiated approaches to parenting plans, screening and cultural issues. AFCC will host several conference sessions on domestic violence and differentiation at its *Eighth International Symposium and Congress* this September in Albuquerque, New Mexico.

[Read now...](#)

46th Annual Conference Call for Presenters

The Call for Presenters for AFCC's 46th Annual Conference, *Children, Courts and Custody: Back to the Future or Full Steam Ahead?* May 27-30, 2009 in New Orleans, LA is available online.



AFCC Eighth International Symposium on Child Custody Evaluations

September 25-27, 2008
Albuquerque Marriott
Albuquerque, New Mexico

AFCC Eighth International Congress on Parent Education and Access Programs

September 26-27, 2008
Albuquerque Marriott
Albuquerque, New Mexico
[Conference Brochure \(PDF\)](#)

MARK YOUR CALENDAR

46th Annual Conference
Children, Courts and Custody: Back to the Future or Full Steam Ahead?
May 27-30, 2009
Sheraton New Orleans
New Orleans, Louisiana
[Call for Presenters \(PDF\)](#)

If you are interested in participating as a presenter, please submit a proposal before October 6, 2008. The conference will take place at the Sheraton New Orleans—just steps from the French Quarter.

[Call for Presenters \(PDF\)...](#)

AFCC Members Lead Parenting Coordination Institute for APA

The American Psychological Association is hosting a full-day parenting coordination institute immediately prior to its 2008 Annual Convention on August 13 in Boston, MA. The institute features AFCC President Robin Deutsch, Ph.D. and AFCC members Joan B. Kelly, Ph.D., Matthew Sullivan, Ph.D., Steven Harner, Psy.D., Giselle Hass, Psy.D., Shirley Ann Higuchi, JD and Alan Nessman, JD. There will be four different areas of parenting coordination addressed at this workshop including psychologists practicing as parenting coordinators, risk management, ethical issues and identifying needs in parenting coordination.

[More information \(PDF\)...](#)

AFCC eNEWS Survey Winner

Congratulations to Pam Rudy of Victoria, BC who won a \$25 gift certificate toward AFCC [pamphlets or publications](#) by completing the *AFCC eNEWS* survey. All respondents who provided their contact information were included in the drawing. *AFCC eNEWS* features that received the highest ratings include announcements on AFCC conferences and trainings, Ask the Experts and updates on AFCC's projects and initiatives. Thanks to everyone who took the time to complete the survey. If you're new to the *AFCC eNEWS*, you can view the archives by clicking the link below.

[View the archives...](#)

RESEARCH UPDATE

Stepmothers Play Important Roles in Childrearing

Courtesy of J.M. Craig Press, Inc.

We have reviewed a number of studies showing that nonresident father involvement is important for children's well being. This is the first study we have seen that examines the same question in situations where fathers are the primary custodians. The author looked at how well children were doing based on the closeness of their relationships with their natural fathers, natural mothers and their stepmothers.

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INTERNATIONAL NEWS

Drops from Down Under

by Hon. Graham Mullane, New South Wales, Australia

There have been considerable developments in Australia this year regarding same-sex couples. This issue of Drops from Down Under examines discrimination against gay and lesbians, civil unions for same-sex couples and property disputes for same-sex couples. The issue also reports on an article that features the relationship between global warming and divorce,

AFCC Trainings

Parenting Coordination

Matthew Sullivan, Ph.D.

October 23-24, 2008

Kansas City, Missouri

Parenting Coordination

Christine Coates, J.D.

December 8-9, 2008

Baltimore, Maryland

Father Parent Differently Than Mothers

Marsha Kline Pruett, Ph.D.

December 10-11, 2008

Baltimore, Maryland

Parenting Coordination

Robin M. Deutsch, Ph.D.

February 9-10, 2009

New Orleans, Louisiana

Attachment, Alienation and Access

Arnold Shienvold, Ph.D.

February 11-12, 2009

New Orleans, Louisiana

AFCC Chapters

Texas Chapter Annual Conference

October 3-4, 2008

South Texas College of Law
Houston, Texas

www.texasafcc.org

Arizona Chapter Annual Conference

January 30-February 1, 2009

Hilton Sedona Resort and Spa
Sedona, Arizona

www.azafcc.org

California Chapter Annual Conference

February 6-8, 2009

The Mark Hopkins Hotel
San Francisco, California

www.afcc-ca.org

Florida Chapter Annual Conference

February 27-28, 2009

and highlights upcoming family law and dispute resolution conferences in Australia.

[Read now...](#)

5th World Congress Call for Presenters Online

The 5th World Congress on Family Law and Children's Rights is accepting proposals for its conference, August 23-26, 2009, in Halifax, Nova Scotia. The deadline for proposals is October 1, 2008. The Call for Presenters is posted on the World Congress on Family Law and Children's Rights Web and can be accessed by clicking the link below.

[More information...](#)

NEWS FROM COLLABORATING ORGANIZATIONS

Standards of Practice for Lawyers in Civil Protection Order Cases Available Online

Courtesy of ABA Commission on Domestic Violence

The *Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault and Stalking in Civil Protection Order Cases* developed by the ABA Commission on Domestic Violence is available online. The *Standards* raise awareness of the need for high quality legal representation for victims of domestic violence, sexual assault and stalking.

[View Standards \(PDF\)...](#)

Mediate.com Offers Free Basic Membership

Mediate.com is offering a free Basic Membership, which offers a free listing in Mediate.com's ADR directory. Practice areas include family mediation, parenting coordination and custody evaluation. Mediate.com members can indicate organizational affiliation (including AFCC as a featured organization) and there is a new "[Search by Organization](#)" function, including the ability to search by AFCC membership.

[More information...](#)

FEATURED ARTICLES

An Overview and Survey Regarding the American Law Institute's "Approximation Rule" Proposal

by Richard A. Warshak, Ph.D., Dallas, TX

The purpose of this article is to provide a brief overview of a proposal to reform child custody law advanced by a prestigious and highly influential group of legal scholars and then to invite readers to respond to a very brief survey that will provide the first empirical data directly bearing on the debate regarding this proposal.

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Gay Couples Find Marriage is a Mixed Bag

Courtesy of the New York Times

Four years after Massachusetts became the first state to allow gay couples to marry, there have been blissful unions, painful divorces and everything in between.

[Read article](#) | [Watch video...](#)

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ABOUT AFCC eNEWS

AFCC eNEWS is a monthly e-newsletter published by the Association of Family and Conciliation Courts (AFCC). *AFCC eNEWS* provides professionals with time sensitive and up-to-date topics including practice tips, research innovations and international news.

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AFCC welcomes your comments, questions or feedback. Please email the editor by [clicking here](#).



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Professionals dedicated to improving the lives of children and families through the resolution of family conflict



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Stepmothers Play Important Roles in Childrearing

Courtesy of J.M. Craig Press, Inc.

King, V. [2007]. When Children Have Two Mothers: Relationships With Nonresident Mothers, Stepmothers, and Fathers. Journal of Marriage and Family, 69, 1178-1193.

We have reviewed a number of studies showing that nonresident father involvement is important for children's well being [See Digests: 4, 3; 5, 4; 7, 2; & 8, 2.]. This is the first study we have seen that examines the same question in situations where fathers are the primary custodians. The author looked at how well children were doing based on the closeness of their relationships with their natural fathers, natural mothers and their stepmothers.

The author studied 294 adolescent who were in 7-12th grade. All lived with their fathers and a stepmother. Each teen was interviewed along with either their natural father or stepmother.

The author found that:

- In general, the teens were closest to their fathers and next closest to their stepmothers.
- Thirty-eight percent of the teens reported being close to both their natural mother and stepmothers and 12% said they were close to neither one.
- Twenty-nine percent of the teens said they were close only with their stepmothers, while 21% stated that they were close only with their natural mothers.
- Generally, the girls reported being closer to their stepmothers than did the boys and the boys reported being closer to their fathers.
- Those teens who had more contact with their natural mothers reported being closer to them. However, "Results provide no evidence that levels of contact with nonresident mothers interfered with establishing close ties to resident stepmothers or that levels of closeness to one mother negatively affected levels of closeness to the other" [p. 1188].

Critical Analysis

This is the first research we have seen that studies a relatively small and understudied population. However, there was no comparison group of children who resided with their mothers and stepfathers, making impossible any relative evaluation of the two situations. A second problem is that many of the interviews were conducted with stepmothers only and they may not have been objective in their responses. Finally, the author did not include any information regarding how long the fathers had been remarried. Therefore, we do not know to what degree the strength of teen-stepmother relationship may have been strengthened by the length of the father's remarriage.

Recommendations

Much previous research has suggested that blending families can be a very difficult process fraught with conflict and pain. This study does not address that problem directly, but it suggests that children can establish good relations with resident stepmothers while maintaining good relations with their natural mothers.

This research studies a situation we have seldom seen—remarried fathers who are primary custodians of their children. This research is timely since in recent years, fathers have begun to play far greater roles in rearing their children than they have in the past. The enhanced role may also entail the introduction of stepmothers. This study is encouraging as it suggests that stepmothers may play very beneficial roles in the lives of their stepchildren. Therefore, when child custody evaluators have the opportunity to do so, stepparents should be included in their investigations.

Finally, we have reviewed some research related to the beneficial role stepmothers may play and recommend the following for further reading [See Digests: 6, 2; & 8, 5].

Please note that in our next issue we will review the second article in this series.

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

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Drops from Down Under

by Hon. Graham Mullane, New South Wales, Australia

There have been considerable developments in Australia this year regarding same-sex couples. This issue of Drops from Down Under examines discrimination against gay and lesbians, civil unions for same-sex couples and property disputes for same-sex couples. The issue also reports on an article that features the relationship between global warming and divorce, and highlights upcoming family law and dispute resolution conferences in Australia.

Discrimination against Gay and Lesbian People

The new Federal Government has introduced legislation to remove discrimination in about 100 different Acts of the Federal Parliament and to give parties of de facto marriages and same-sex couples the same rights as married couples. The laws changed include superannuation law and laws with regard to pensions for Federal Judges. This amendment will mean, for example, that the (male) partner of Justice Michael Kirby of the High Court will be eligible for a pension if the judge dies—just the same as a widow or widower of a judge would receive.

The changes in law will also remove discrimination against gays and lesbians under the following laws: income tax, health, workers' compensation, social security, aged care, veterans payments and employment (in areas such as carer's leave, compassionate leave, parental leave and travel entitlements).

One effect will be that the defense forces will offer same-sex couples the same low interest home loans offered to heterosexual couples. The workers' compensation scheme will give same-sex partners a lump sum in the event of a partner's death or injury at work. Health laws will allow same-sex partners the same rights for hospital visiting or medical powers of attorney as heterosexual partners.

Civil Unions for Same-sex Couples

The previous conservative Federal Government used its powers in relation to Commonwealth Territories to veto legislation of the Australian Capital Territory (ACT) to introduce civil unions, similar to marriages, for same-sex couples. The new Federal Government has now agreed to the ACT legislation that provides for a register of same-sex "civil unions," but without provision for any marriage like ceremony.

The Federal Attorney-General has called on the states to each set up a register for same-sex couples, so that registrations of such unions could be used as a test under some Federal legislation. Western Australia has refused to do so.

Property Disputes

The Family Court of Australia and the Federal Magistrates Court both have jurisdiction in relation to property disputes between parties to a marriage and in relation to children's disputes between any interested parties including parties to a same-sex relationship. Under the previous Federal

Government the states agreed to transfer to the Commonwealth their powers with regard to property disputes between parties to de facto marriages, but sought to include same-sex de facto marriages. The then Federal Government rejected that proposal in respect of same-sex couples.

The new Federal Government has now agreed to accept the legislative power in respect of same-sex couples as well as heterosexual unmarried couples and will legislate in respect of both. The legislation has come before the Parliament. If passed, it will give access to the Family Court to unmarried couples, including same-sex couples, to resolve property disputes and their rights will be determined under the Family Law Act, Federal law which will apply across Australia.

The proposals of the Federal Government to remove discrimination and to legislate regarding property disputes between unmarried couples, including same-sex couples, have been strongly supported by the media and also the public. The Federal opposition has generally supported the Federal Government's proposals.

While there have been vocal opposition laws that would give recognition of marriage like ceremonies between same-sex couples, there has been considerable support for the registration arrangements proposed under the ACT legislation. Indeed, similar legislation has now been passed by two of the states. Because the Australian Constitution gives the Federal Government power with respect to "marriage" and marriage at the time the constitution clearly meant a union between a man and a woman, there is a general view that the states have the exclusive power in relation to unions between same-sex couples.

Global Warming and Divorce

The Sunday mail in Brisbane reported recently that a controversial dam proposal intended to address water shortages in Queensland, "has created a wave of divorces in the Mary Valley, residents and relationship counselors say." It is alleged that the uncertainty and stress surrounding land resumptions for the dam has had a devastating impact on relationships. Numerous residents of the area have reported a vast number of marriage breakdowns and divorces.

Upcoming Conferences

The following conferences will be held in Australia in the next few months. For additional program and contact information, please e-mail justice.mullane@familycourt.gov.au

Level One Collaborative Law

July 25-26, 2008
University of Technology
Sydney, NSW

Basic Mediation

July 31-August 3, 2008
Australian Institute of Family Law Arbitrators and Mediators in conjunction with Bond University
Gold Coast, QLD

International Conference on Child Labor and Child Exploitation

August 3-5, 2008
Children's Rights International
Cairns, QLD

12th Annual Melbourne Family Law Intensive

August 23, 2008
Family Law Section, Law Council of Australia
Melbourne, VIC

Advanced Mediation

August 28-31, 2008
Australian Institute of Family law Arbitrators and Mediators in conjunction with Bond University
Gold Coast, QLD

Family Mediation/FDR Course

October 8-12, 2008
Bond University
Surfers Paradise, QLD

Hunter Valley Family Law Conference

October 24-25, 2008

Cypress Lakes Resort. Presented by Hunter Valley Family Law
Practitioners' Association
Hunter Valley Wine Region, NSW

Level One Collaborative Law

November 21-22, 2008

University of Technology
Sydney, NSW

Basic Mediation

November 27-30, 2008

Australian Institute of Family Law Arbitrators and mediators in conjunction
with Bond University
Gold Coast, QLD

14th Biennial National Family Law Conference

October 17-21, 2010

Canberra, ACT

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An Overview and Survey Regarding the American Law Institute's "Approximation Rule" Proposal

by Richard A. Warshak, Ph.D., Dallas, TX

The purpose of this article is to provide a brief overview of a proposal to reform child custody law advanced by a prestigious and highly influential group of legal scholars and then to invite readers to respond to a very brief survey that will provide the first empirical data directly bearing on the debate regarding this proposal.

The American Law Institute

To understand the importance of this project, it is essential to know something about the power of the group that has created the proposal. The American Law Institute (ALI) is an elite organization that promotes reform in all areas of the law. It was established in 1923 by the likes of William Howard Taft, Charles Evans Hughes and Elihu Root. Currently, it comprises an elected membership of eminent law professors, judges and lawyers, and *ex officio* membership of the Chief Justice of the United States, the Associate Justices of the Supreme Court, the Chief Judges of the United States Courts of Appeals, the Attorney General and Solicitor General of the United States, the chief justices of the state supreme courts, law school deans and the presidents of various legal organizations, including the national and state bar associations.

Through its publications and Restatements of Law, the ALI exercises great influence on the landscape of law in the United States. The impact of its family law reform proposals, *Principles of the Law of Family Dissolution* (hereinafter the *Principles*) published in 2002 after four preliminary drafts, is already being felt in legislatures, courts and law school curriculums. Professor Robin Wilson opines, "It is difficult to overstate the degree of the ALI's influence. As of March 1, 2004, state and federal courts have cited the Restatements 161,486 times." Professor Wilson continues, "Because of the prestige of the ALI, judges will undoubtedly rely on the *Principles* as they have relied on the ALI's Restatements. Legislators are also likely to turn, rightly or wrongly, to the *Principles* for guidance. . . ."

The Survey of Child Custody Evaluators and Attorneys

The ALI *Principles* proposes the *approximation rule* to govern decisions regarding the division of the child's time with each parent, i.e., the physical (residential) custody of children whose parents live apart from each other. In some jurisdictions these arrangements fall under the rubric of the parenting plan. Texas law refers to these as periods of possession.

The *Principles* makes a number of assumptions and predictions about how the approximation rule will work in practice and expects the rule to accomplish certain objectives. The proposal, described below, has generated much debate in the law and mental health literature. But, to date the debate consists largely of speculations about how the proposal would work if endorsed by state legislatures. What is missing from the literature on the approximation rule is empirical research that could provide evidence directly relevant to the goals of the proposal.

It is in this context that I am requesting help from readers of this article who are either child custody evaluators or attorneys. The brief (one minute) survey in which you are invited to participate will provide the first

empirical data directly concerned with the approximation rule and may play a role in its acceptance or rejection by legislatures throughout the country. To increase the likelihood that your responses will provide data that is independent of any particular position regarding the proposal, I am not going to describe the various assumptions, predictions and objectives of the approximation rule in this article, nor will I discuss my own position on the issues. I merely provide the background you need to respond to the brief survey. In a subsequent article, I will present the results of the survey and discuss how the results relate to the assumptions and goals of the approximation rule proposal.

In order to respond to the survey, it is essential to know the language of the rule, the exceptions to the rule and ALI's definition of caretaking functions. These are provided next, followed by a link to the survey questions. Please note that all responses are anonymous and will be tallied on a group basis. To reciprocate, when articles are published that include the data from this survey I will email a PDF file of the published articles to any survey respondent who requests these.

The Approximation Rule

The ALI *Principles* proposes that, in contested physical custody cases, "[T]he court should allocate custodial responsibility so that the proportion of custodial time the child spends with each parent approximates the proportion of time each parent spent performing caretaking functions for the child prior to the parents' separation."

Exceptions to the Approximation Rule

The *Principles* designates exceptions that modify the application of the approximation rule. These exceptions include allocations designed:

1. to permit the child to have a relationship with each parent which, in the case of a legal parent or a parent by estoppel who has performed a reasonable share of parenting functions, should be not less than a presumptive amount of custodial time set by a uniform rule of statewide application;
2. to accommodate the firm and reasonable preferences of a child who has reached a specific age, set by a uniform rule of statewide application;
3. to keep siblings together (if) necessary to their welfare;
4. to protect the child's welfare when the presumptive allocation under this section would harm the child because of a gross disparity in the quality of the emotional attachment between each parent and the child or in each parent's demonstrated ability or availability to meet the child's needs;
5. to take into account any prior agreement made before and outside the immediate context of the separation considering the circumstances as a whole, including the reasonable expectations of the parties, the extent to which they could have reasonably anticipated the events that occurred and their significance, and the interests of the child;
6. to avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangements;
7. to accomplish the relocation objectives that: "The court should allow a parent who has been exercising the clear majority of custodial responsibility to relocate with the child if that parent shows that the relocation is for a valid purpose, in good faith, and to a location that is reasonable in light of the purpose."; and
8. to avoid substantial and almost certain harm to the child.

Additional exceptions to the rule include situations where a parent has:

1. abused, neglected or abandoned a child;
2. inflicted domestic violence or allowed another to inflict domestic violence;
3. abused drugs or alcohol, or another substance in a way that interferes with the parent's ability to perform caretaking functions; and
4. interfered persistently with the other parent's access to the child.

Definition of Caretaking Functions

For purposes of implementing the approximation rule, the ALI *Principles* defines caretaking functions as follows:

Caretaking functions are tasks that involve interaction with the child or that direct, arrange, and supervise the interaction and care provided by others. Caretaking functions include but are not limited to all of the following:

1. satisfying the nutritional needs of the child, managing the child's bedtime and wake-up routines, caring for the child when sick or injured, being attentive to the child's personal hygiene needs including washing, grooming and dressing, playing with the child and arranging for recreation, protecting the child's physical safety, and providing transportation;
2. directing the child's various developmental needs, including the acquisition of motor and language skills, toilet training, self-confidence and maturation;
3. providing discipline, giving instruction in manners, assigning and supervising chores, and performing other tasks that attend to the child's needs for behavioral control and self-restraint;
4. arranging for the child's education, including remedial or special services appropriate to the child's needs and interests, communicating with teachers and counselors, and supervising homework;
5. helping the child to develop and maintain appropriate interpersonal relationships with peers, siblings and other family members;
6. arranging for health-care providers, medical follow-up and home health care;
7. providing moral and ethical guidance; and
8. arranging alternative care by a family member, babysitter, or other child-care provider or facility, including investigation of alternatives, communication with providers and supervision of care.

Take the Survey

AFCC eNEWS subscribers are invited to complete the survey by following the appropriate links for child custody evaluators or attorneys below. The survey should only take a few minutes to complete. As you respond to the survey, please keep in mind and feel free to consult the above descriptions of the rule, the exceptions and the definition of caretaking functions.

Survey for Child Custody Evaluators:

[http://www.surveymonkey.com/s.aspx?
sm=TFJMBthCfDHVfUktK_2bl1Xg_3d_3d](http://www.surveymonkey.com/s.aspx?sm=TFJMBthCfDHVfUktK_2bl1Xg_3d_3d)

Survey for Attorneys:

[http://www.surveymonkey.com/s.aspx?
sm=8ipBJ1Mch4a5zaDPLnzO_2fw_3d_3d](http://www.surveymonkey.com/s.aspx?sm=8ipBJ1Mch4a5zaDPLnzO_2fw_3d_3d)

If you can give a few additional minutes of time, there is an optional second part to the survey. The results of Part 2 will shed light on the impact of stressful life events on a child's development and either confirm or challenge some popular beliefs about divorce. At the end you will be given the opportunity to provide your email address to receive free reprints of journal articles reporting the survey results. If you have any questions, please email the author at warshak@att.net.

Reference citations for this article are available at <http://home.att.net/~rawars/endnotes.htm>.

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