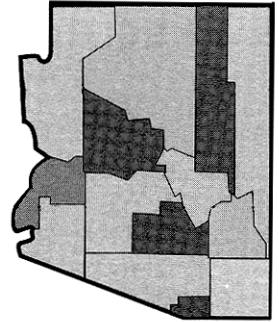




Association of Family and Conciliation Courts



The Newsletter

Winter 2005

Arizona Chapter

AZ AFCC President's Message *By Judge Mark W. Armstrong*

Since I last wrote in these pages about Therapeutic Jurisprudence, there have been many Arizona family law developments that I thought I should share with you.

The Supreme Court has approved revised Child Support Guidelines that will take effect January 1, 2005. The changes may be viewed at the Supreme Court's Child Support website: <http://supreme.state.az.us/dr/childsup/drguide2005.htm>. One important aspect of the child support guidelines is the parenting time adjustment that I have addressed in a separate article in this newsletter.

The Supreme Court's Committee on Rules of Procedure in Domestic Relations Cases has made substantial progress in drafting rules that will apply to all family law cases statewide. These rules will be unique to family law cases and will replace the Rules of Civil Procedure that often did not fit well in the family law context. For example, the rules include comprehensive provisions relating to Alternative Dispute Resolution (ADR) and specific provisions concerning post-decree cases and temporary orders. Importantly, the rules provide time limits within which Courts must hear requests for temporary orders. The rules also provide for the relaxation of the rules of evidence in certain cases, and contain unique provisions for representation of children. The rules further provide specifically for limited scope representation in family law cases. These rules may be viewed in progress at: <http://www.supreme.state.az.us/drrc/>. Your comments are welcomed.

There have been changes in family law court leadership in both Pima and Maricopa Counties, with Judge Jan Kearney replacing Judge Nanette Warner, and Judge Norm Davis replacing me in Maricopa County.

The Supreme Court's study of the Family Court in Maricopa County has been completed. The study is expected to lead to several reforms in the Family Court including a more uniform case management system that will reflect the proposed statewide rules, an e-form system that will eventually allow litigants to prepare pleadings and forms using a prompt system from their home computers, and longer terms for judges in family law court.

Finally, the Arizona Legislature passed A.R.S. §25-323.02, which requires mental health providers in family law cases to be trained in the areas of domestic violence and child abuse. Minimum standards for such training have been approved by the Legislature's Domestic Relations Committee and may be viewed at the Committee's website: <http://www.supreme.state.az.us/courtserv/DRC/DRC.htm>.

As you can see, this is an exciting time for family law in Arizona. We hope to enhance these improvements in family law at our 2005 Annual Conference in Sedona. I hope to see you all there on February 4.



Parenting Time Adjustment to Child Support

*by Judge Mark W. Armstrong
President*

Arizona Chapter Executive Committee

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I have heard from several mediators that the parenting time adjustment to child support is not well known. I feel confident in saying, however, that family law judges and attorneys very well know it. It certainly is something that all family mediators should be aware of.

When first considered for adoption in Arizona about nine years ago, this was a very controversial issue. Even today, fewer than half the states use such an adjustment.

The basis of the parenting time or visitation adjustment is really quite simple – the more time the non-custodial parent spends with the child, the more cost shifting that likely occurs. Therefore, the child support amount yielded by the guidelines should be reduced proportionately. In practice, of course, the issue may be more complex. Parents may argue over the amount of parenting time actually exercised, and whether there has been an actual shifting of costs, which is required for the application of the adjustment.

To better understand this adjustment, it helps to generally understand the basis for Arizona's child support guidelines. Arizona uses a model called the "Income Shares" model, in which the Court looks at the combined income of both parents and uses a table of child support based on estimated child rearing expenses. Generally, child support is determined by applying a parent's proportionate share of income to the estimated child rearing expenses.

As specifically applied in Arizona, the guidelines include two parenting time adjustment tables. Table "A" applies presumptively and assumes relatively proportionate cost shifting. Based on the number of days of parenting time per year, an adjustment percentage is provided that is used to reduce the basic child support obligation by that percentage. The child support guidelines also provide guidance on how to determine the number of days of parenting time.

An alternative table, Table "B," may be used in cases where proof is presented that there has not been a proportionate sharing of costs. To my knowledge, this table, which was first adopted in 2001, has not yet been used by any Arizona court.

This is a very brief summary of the parenting time adjustment and is not intended to be a comprehensive treatment. The parenting time adjustment is Section 11 of the current guidelines, and will be Section 11 in the revised guidelines that will take effect January 1, 2005. There have been a few changes in this section of the guidelines particularly in how we determine the number of days of parenting time for the adjustment. The new guidelines in accompanying child support calculator may be found at <http://www.supreme.state.az.us/dr/childsup/drguide.htm>

“Sunday Plenary Speakers: Research Highlights.”

David Sbarra, University of Arizona, will present recent research on the long-term effects of therapeutic divorce mediation from one of the only experimental studies conducted in this area to date (Emery et al., 2001). In addition, he will outline a research approach for investigating *how* therapeutic mediation (and other family interventions) may operate to improve adult adjustment and positively impact post-divorce family functioning.

Divorce Mediation: In Search of the Key Therapeutic Ingredients

By David A. Sbarra

High divorce rates, difficult conflicts between parents, and concerns about the resulting administrative burden on courts and especially damaging effects on children and post-divorce family relationships caused mediation and other forms of alternative dispute resolution to grow rapidly in the last few decades. To date, however, relatively little is known about whether mediation actually achieves a lasting positive impact on family functioning, adult and child adjustment, and the administration of justice (Beck & Sales, 2001). Furthermore, the achievement of some goals (e.g., enhancing family relationships), may unintentionally work against other goals of mediation (e.g., improving adults resolution of the loss of their marriage). For instance, in a recent 12-year follow-up of families who were randomly assigned to either mediate or litigate child custody disputes in Virginia during the 1980s, parents who mediated their dispute reported a better ability to work together as a post-divorce couple, but also reported a continued longing for their former partner, which is highly associated with depression. A more detailed understanding of the *psychological processes* mediation sets in motion is needed.

Principal Investigator and current AFCC board member, Dr. Connie Beck, University of Arizona, will present initial results of an ongoing study on mediation with domestically violent couples.

Mediation with Domestically Violent Couples

By Connie Beck and Caitlin Taylor

Mandating that parents who cannot agree on custody and visitation issues attempt mediation before scheduling a court hearing is controversial. One enormous concern is the adequacy of screening for and accommodating victims of domestic violence. Significant numbers of clients seen in mediation have histories of domestic violence (50-80%, Pearson, 1997). Although we know that some victims have appalling experiences in mediation in Arizona (Post, 2003), we do not know if this is typical or representative of all victims who participate in mediation. The existing research in Arizona as well as Nationwide is anecdotal or includes very select samples of subjects.

A team of researchers is currently collecting and analyzing archival data that will directly assess a representative sample of mediation clients and their reports of domestic violence behaviors. The subjects are clients who were referred to the court-sponsored mediation service in Tucson, AZ between years 1998-2000 for a first time mediation session associated with a pending divorce (90% response rate, 1015 couples). This sample is extremely valuable for it includes not only a large number of subjects but also data from nearly all of the clients (male and female) seen at this service during a three-year period. The data also includes very specific questions posed regarding the types and frequencies of abusive behaviors and the outcomes of the cases associated with the different types/frequencies of abuse.

Announcements

RETIREMENT

Fred Mitchell, the Director of the Family Conciliation Court in Pima County, has retired. He was a leader in his field, a very hard worker for AFCC and AzAFCC and all around great guy. His expertise and work ethic will be missed.

NEW DIRECTOR

Grace Hawkins, an AzAFCC board member, has been appointed the Director of the Family Conciliation Court in Pima County. Congratulations Grace



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Association of Family & Conciliation Courts



Arizona AFCC will present another outstanding annual conference titled, “Better Decision Making for Children,” February 4-6, 2005 at the Hilton Sedona Resort & Spa, Sedona, Arizona. Once again, Arizona AFCC has put together a stellar lineup of presenters and topics that will actually distract attendees from the beautiful red rocks of Sedona.

Marsha Kline-Pruett, Ph.D., is the Friday night plenary speaker, on the topic “Intervention with Young Children/Overnight Research”. Her presentation will include a description of the controversies regarding young children and overnights, with presentation of original data from a court-based intervention and evaluation project on optimal features of parenting plans for young boys and girls.

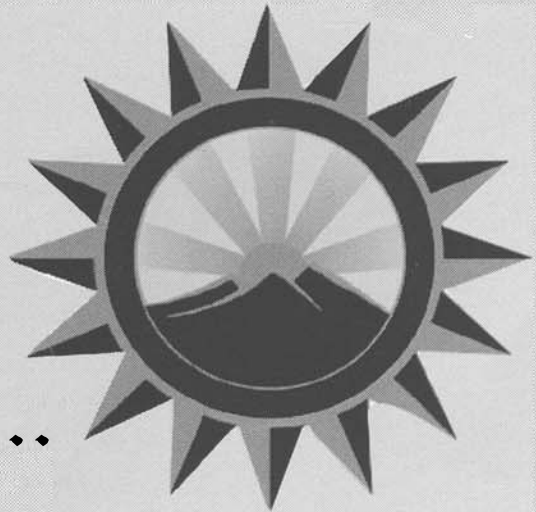
For the Saturday morning plenary session, Nancy Olesen, Ph.D., will discuss differing attachment styles of adults and children. Her presentation includes a comparison of the attachment issues that arise in a “standard” dissolution with those arising in cases involving child abuse, domestic violence, estrangement and/or alienation.

The closing plenary on Sunday will feature University of Arizona assistant professors Connie Beck, Ph.D., and Dave Sbarra, Ph.D., and their “Research Findings: Long-Term Effects of Custody Mediation, and Mediation and Domestic Violence”. This plenary discussion will focus on a 12-year follow-up study of families randomly assigned to either mediate or litigate child custody disputes, and present results related to family functioning and overall adult adjustment to divorce. The session will further cover a 3-year study detailing domestic violence behaviors found in a sample of families mandated to attend mediation for custody and visitation.

Twelve outstanding workshops will be presented on Saturday and Sunday, with topics to include: Alternative Approaches to Custody Decision-Making (The Honorable Nancy A. Flatters, Provincial Court of Alberta, Family and Youth Court); Substance Abuse and Parenting Plans; Preparing the Client for the Custody Evaluation; Use and Misuse of Special Masters and Family Court Advisors; Gay and Transgender Issues; Mediating Beyond Parenting Time; Getting Past Impasses in Dispute Resolution; Arizona’s new Rules of Family Court Procedure; Juvenile Court Jury Trials; and Ethics for the Legal and Mental Health Professions.

The Sedona conference runs from the Friday night plenary session (February 4), followed by the usual Friday night cocktail party, through the closing plenary on Sunday noon (February 6). Other conference favorites include the Saturday night banquet at Cucina Rustica, our Saturday luncheon, and our famous hospitality suite, will allow for plenty of social time and interaction. For further information, see the Arizona AFCC website at AZAFCC.org or contact the President of the Arizona chapter, Honorable Mark Armstrong, at maarmstr@superiorcourt.maricopa.gov.

Decisions ...
Decisions ...
Decisions ...



**Better Decision
Making for
Children**

Arizona Association of
Family & Conciliation Courts

2005 Annual Conference

February 4th-6th, 2005
Sedona, Arizona

Register online: www.azafcc.org