On Thursday, September 27, 2012, the Senate passed the Michigan Indian Family Preservation Act (The “MIFPA,” Senate Bill No. 1232) with a majority vote, 36-2¹. On September 12, 2012 — just weeks after its introduction to the Senate and concurrent referral to the Families, Seniors and Human Services Committee on August 15, 2012 — several Indian Law experts offered favorable testimony at the Committee’s public hearing in the state’s capital. With the Senate passage of S.B. 1232 the State of Michigan, respecting its government-to-government relationship with its Indian tribes, grows closer to a living resolution for case management in child custody proceedings. Congress’s thirty-four-year-old observation of our Indian children announced with the enactment of the Federal Indian Child Welfare Act (“ICWA”)² remains true today: “[T]here is no resource that is more vital to the continued existence and integrity of Indian tribes than their children...”³ The MIFPA echoes and affirms this sentiment.

Why Michigan Needs Its Own ICWA Legislation

If ICWA is the existing and controlling law for every state court nationwide, then why does Michigan need its own ICWA legislation? The answer is simple. It will increase state court compliance, and increased compliance decreases costs. Adopting the MIFPA would yield promising financial and human benefits as well as distinguish Michigan as one among other progressive states that have enacted affirming legislation.

[Continued on Page 2]
In its 1979 Guidelines for State Courts; Indian Child Custody Proceedings, the Bureau of Indian Affairs (BIA) encouraged legislative affirmation by the individual states. The federal law establishes bare minimum standards for protection. States are free to enact legislation which affords even greater protection for children and tribes. The State of Washington, for example, expanded their State Law last year to include protection for Canadian Tribes. MIFPA essentially affirms and clarifies the existing law. Under MIFPA, if a child is eligible for membership in a federally recognized tribe, that child fits within the definition of an Indian Child, regardless of whether or not the parent is a member. Similarly, if a child is a ward of the tribal court, the tribal court has exclusive jurisdiction, regardless of whether the child is “an Indian child”.

When the ICWA was enacted, there were five federally recognized tribes in Michigan. Today, there are twelve. As Tribal Judge Mike Petoskey says, “If it was a good idea then (state legislative affirmation), it is a great idea now!” The emergent presence of our tribal neighbors, through more meaningful access to state court review, has resulted in a rise in Indian child custody proceedings. These increased encounters between Indian children and state courts not only demand that those professionals involved in child custody proceedings (foster care placement, juvenile guardianship, termination of parental rights, pre-adoptive placement, temporary placement, adoptive placement, permanent placement, and the like) respond promptly, but also that we respond properly to manage and adjudicate our caseloads. Proper notice of proceedings ensures due process for tribes. Inadequate adjudication delays legally appropriate resolution. That delay prolongs unnecessary placement in foster care. The estimated cost per child, per month, in foster care is $2,000.00. Obviously, increased compliance decreases this financial cost.

There is, however, a far greater cost to noncompliance than the financial cost. That is the cost to our children and to our families. Permanency for our children and certainty for our families is always a paramount concern. Noncompliance contradicts adherence to that concern. Many state actors in the adoption system are aware of the In re Baby Jessica case. Failure to appropriately notify legally interested parties in that case (a non-ICWA case), and the subsequent failure to address their legal rights once their identities were known, resulted in catastrophic uncertainty for the child, the biological family, and the adoptive family. As decision-makers we
bear no greater burden than the responsibility for the children and families we serve, and for our errors in application of the law.

Finally, increased compliance decreases costs to our institutional reputation. As Shingwaukonse ("Little Pine")⁹ so poignantly stated, “I would have been better pleased if you had never made such promises than that you should have made them and not performed them.” Noncompliance by state court systems of this law confirms distrust and creates perceptions of our motivations beyond ignorance. That distrust and those perceptions have long-term ramifications for future relationships and outcomes. Succinctly, Michigan’s reputation is at stake. With the introduction and passage of MIFPA, Michigan affirms to the rest of the nation, and to the citizens within its borders, that it honors and follows the law.

Our neighbors, through resolution from the United Tribes,¹⁰ have asked us to pass this legislation in honor of and commitment to our promise. Our State Bar, in its Judicial Crossroads Report,¹¹ specifically recommended state legislative enactment of the federal law. Our Michigan Judges Association has passed a resolution in support. In January 2011, The National Council of Juvenile and Family Court Judges passed a resolution¹² for increased compliance by state courts with the letter and the spirit of the Indian Child Welfare Act. That same resolution acknowledged that the Tribal Courts have historically not been regarded as equal in status with the state courts in that, as a result, the Tribal Courts and the children and families served by the Tribal Courts have been denied many of the resources available to the state courts. As individual judges and referees, now is the time to demonstrate our commitment to closing that gap through our thoughts, our words, and our deeds.

What is the Current Status of the Bill

S.B.1232 awaits its passage by the House of Representatives. The MIFPA will be in full effect once the identical version of the bill - the enrolled bill - is passed by both the Senate and House. Its passage would be a positive and significant milestone in Michigan’s history. As referees and judges, as decision-makers,
we have a unique opportunity to ensure compliance with both the letter and the spirit of the Act. This is the embodiment of the oath of office we all took in order to serve. It is our duty, our legal obligation, and our moral responsibility.

4 Guidelines for State Courts; Indian Child Custody Proceedings, 44 Fed. Reg. 67,584 (Dep’t of Interior Nov. 26, 1979) (explaining that “[t]hese guidelines are not intended to discourage [state] action”).
9 Native Am. Leader of the Ojibway Cmty. (1790-1854).
10 http://www.unitedtribesofmichigan.org/index.aspx (United Tribes of Mich.).
In recent years, there has been much discussion among the attendees as to where the annual conference should be held. With that in mind, last year, the committee researched every suggested location and several more that had not been mentioned. We were looking for a facility that could house attendees and speakers, had full food service, could provide sufficient meeting room space, was reasonable in cost, and had local attractions that could satisfy a wide variety of interests.

Although there is not a substantial amount of spare time, many attendees want evening activities available after dinner, places to shop and dine, and availability of a variety of activities during seminar hours for family members who have accompanied them. Therefore, the committee has tried to hold the conference in locations that can provide urban enjoyment for those who prefer, and access to nature or outdoor activities for others.

Resorts such as Shanty Creek or Boyne have not been considered recently because they do not meet the needs of our eclectic group. The last time the conference was at Shanty Creek, there was a general consensus that it was too secluded and distant from centers of activity.

In general, the locations researched fell into at least one of two problematic categories. They were either cost prohibitive or unable to accommodate all attendees with sufficient rooms, conference space, and/or dining space. The following locations were cost prohibitive: Ann Arbor (one full-service hotel that had sufficient space downtown had high food and facility fees); Bay City (facility fees high, no nature/outdoor activities in close proximity); East Lansing (Kellogg Center had very high food costs); Grand Rapids (hotels that could accommodate us downtown were cost prohibitive); and Kalamazoo (facility fees and food was cost prohibitive).

The following locations could not provide adequate accommodations: Charlevoix, Cheboygan (the Chamber of Commerce had a good chuckle), and Saugatuck (insufficient guest rooms, conference and dining space); Grand Haven (no hotel could accommodate us downtown); Holland (the only location that had conference space only had fifty guest rooms, and that may not be enough depending on their other bookings and our response); and Luddington & Mackinaw City (have no hotel with conference space or food service).

Frankenmuth was investigated and could meet the conference’s needs, but there were limited activities during non-conference hours. Mackinaw Island was investigated as well, and although Mission Point was able to meet our needs and was rea-
UNLOCKING THE MYSTERY OF THE CONFERENCE PLANNING PROCESS

By Mark Sherbow

reasonably priced, this year the Board did not choose this location because of the additional travel time needed to get there because of its location and the need to take a ferry each way. Both Traverse City and Petoskey can meet the conferences’ needs and are affordable. This year, the Park Place Hotel in Traverse City was unavailable for the week of the conference. The Staffords’ Perry Hotel in Petoskey was available, and is the site for the 2013 conference.

When RAM first began, most speakers were local authorities on a variety of topics that were of interest to both juvenile and domestic relations referees. Beginning in 1998, RAM was fortunate enough to begin a relationship with the National Council of Juvenile and Family Court Judges. For several years, the Council subsidized one speaker at each conference, and our membership benefited from national experts on a wide variety of juvenile and family court topics. In recent years, the Council has not been available to assist, so RAM has returned to soliciting the best and brightest our state has to offer on topical issues in our field, such as respected therapists, educators, practitioners, and jurists. The committee has conference schedules from 1994-2012, and the depth of the presentations is impressive. The committee also tries to find a speaker for each conference that will reinvigorate members by reinforcing their importance to the families they serve, and recognizing their personal needs, including work-life balance.

While trying to juggle all of these goals, the committee must consider the cost of the program. The program must also be balanced to benefit both juvenile and family law referees, yet each topic must be interesting enough to be inviting to both groups. Additionally, suggestions made through members’ evaluations are reviewed and considered each year. Once topics are selected, the committee begins searching for appropriate speakers who can provide the information sought, for an honorarium amount that RAM can afford.

The committee looks for a speaker’s content, ability to speak (as best as can be determined in advance), availability, and cost. This, of all the tasks, is the most difficult and time consuming. The committee believes, and most attendees’ evaluations concur, that our conferences are programmatically quite successful.

Once the structure of the conference is in place, the details are addressed by the committee. This includes tasks like obtaining conference giveaways, meal op-
tions, speakers’ materials collection and packaging, name tags, and the like. Think about it, for $150.00 as a conference fee: RAM provides a dinner, two buffet breakfasts, refreshments throughout the conference, the hospitality suite and at least four speakers who train in and convey their expert knowledge to our group. There is not a better deal in town, there are very few programs offered that can compete with the historic quality of RAM’s Annual Conference.

Fall 2012 Referee Legal Update

Domestic Relations: Case Law
Contributed by Ed Messing, St. Clair County

People v Likine Mich_ (2012) #141154, consolidated for appeal with People v Parks #141181 and People v Harris #14153 7/31/12 held that while the felony nonsupport statute, MCL 750.165, eliminated the defense of inability to pay, it does not preclude the criminal defendant from raising the common-law defense of impossibility. The Michigan Supreme Court determined the Legislature had the authority to make felony nonsupport a strict liability crime when it eliminated the inability to pay defense, but the Legislature did not specifically eliminate the common law defense of impossibility. In this common law defense a criminal nonsupport defendant must show that he or she did everything possible to provide for their child and arranged their finances in a way that prioritized their parental responsibility so that the child does not become a public charge.

The defendant in Likine was convicted of failing to comply with a $1,131 per month child support order based on imputed monthly income of $5,000, which was evidenced by her reported income on a mortgage application. Her support was later reduced when she was drawing $637 month SSI and unemployed. Ms. Likine was charged with felony nonsupport. She testified that she had not worked since her release from a month long hospitalization in September 2005 and was disabled with schizoaffective disorder. She further testified that her boyfriend had paid for the home, and she had “short sold” her home after the bank foreclosed on it. The trial court was found to have erred when it granted the prosecutor’s motion in limine baring Ms. Likine from presenting the common law defense of impossibility. The Supreme Court reversed and remanded the case.

The other defendants were unsuccessful on appeal. The Defendant in Parks argued inappropriate imputation of income in determining his support obligation, but his conviction was affirmed because he waived the defense of impossibility when he failed to raise the defense at trial. The defendant in Harris claimed that he was unable to pay due to back and heart problems, while his ex-wife testified his primary problem was alcohol and drug use. The defendant’s conviction was affirmed because he plead guilty, waiving his ability to raise the defense of impossibility on appeal.
Plaintiff mother had sole legal and physical custody in *Brecht v Hendry_ Mich App_ (2012) #308343 7/24/12, and moved to North Dakota without court permission. The court ordered plaintiff to return to Michigan, and after hearing and addressing the factors under MCL 722.31(4), the court denied her motion to change domicile. The Court of Appeals reversed the denial of plaintiff’s motion for change of domicile, motion for relief from the order, and motion for reconsideration. While a parent who has sole legal and physical custody must obtain the court’s permission to change domicile if required by the custody order, the court must exercise its discretion to grant or deny the motion without addressing the D’Onofrio factors or MCL 722.31(4) factors. The court specifically acknowledged that it was unclear how family courts might exercise the discretion implied by the existence of MCR 3.211(C)(1), given the prior rulings in *Spiresv Bergman, 276 Mich App 432 (2007)* and *Brausch v Brausch, 283 Mich App 229 (2009)*.

In *Gaudreau v Kelly Mich App_ (2012) # 304345 10/16/12 the maternal grandparents were granted custody of defendant father’s child by a court in the Province of Quebec, Canada, and defendant father was ordered to pay support. Defendant was represented by counsel, who filed pleadings during the proceedings, but Defendant did not personally appear. A request to enforce the support and arrearage obligations in Michigan under UIFSA, MCL 552.1101 et seq, was denied because the Province of Quebec had not entered into a reciprocity agreement with the United States under the statute, but the court later granted Petitioner’s request to declare Quebec a Reciprocating State and enforce the support order and arrearages under URESA, MCL 780.151, et seq.

The Court of Appeals affirmed, finding that the court had jurisdiction to enforce the support provisions of the Quebec custody order under the principle of international comity as an alternative remedy to UIFSA, which was not available. The Court of Appeals found that Defendant had a fair hearing on the merits based on the clear and formal pleadings of the record of the Quebec Court and testimony. The Court also dismissed Defendant’s argument that enforcement of the Quebec order was in error because it did not provide parenting time, as there was no evidence that Defendant ever requested parenting time or access from the Quebec Court.

*Loutts v Loutts Mich App_ (2012) #297427 9/4/12 The trial court erred when it determined that, as a matter of law, it could only use the value of Plaintiff’s business for division of property or spousal support, not both, under the “double dipping” theory. The court must exercise its discretion on a case-by-case basis to determine whether to use Plaintiff’s full income from his business, even though it was divided between the parties, along with the other alimony factors when awarding spousal support. The court also erred when imputing a $40,000 a year income to Defendant based on her degrees as she had little employment experience in her field and none of the “available” professor jobs presented by Plaintiff’s expert were located in Michigan. The court finally erred when it failed to address Defendant’s multiple requests for attorney fees based on her inability to pay the same as her fees exceeded her imputed

[Continued on Page 9]
income. The court properly included a prohibition against Defendant competing with the business awarded to Plaintiff as both parties had requested the same.

Plaintiffs in Neal v Department of Corrections _Mich App_ (2012) #305142 8/7/12 were women prisoners awarded a $100 million settlement based on a class action lawsuit claiming they were “victims of systematic sexual harassment, sexual assault and retaliation inflicted by male corrections personnel.” The trial court entered a protective order that prohibited disclosure of the names of class members to prevent retaliation by corrections personnel. Plaintiffs objected to DHS’ request for discovery of the identities of class members in order to collect any outstanding child support obligations that may be owed by class members.

The trial court denied the request for discovery after DHS representatives stated it was logistically impossible to provide a list of names of female prisoners with outstanding support obligations who may be members of the class. The Court of Appeals reversed, holding that Department of Corrections (MDOC) could not stipulate to an order that violated the automatic lien, under MCL 552.625a, on proceeds from settlements and judgments owed to a person who owes past due support. The trial court was required to determine and oversee an appropriate method of ensuring that MDOC withhold support from payments made to prisoners or monies owed to prisoners without disclosing the names of class members.

The Court of Appeals in Vittiglio v Vittiglio _Mich App_ (2012) #303724 7/31/12 found that the trial court properly entered a judgment based on a domestic relations mediation agreement acknowledged by the parties on an audio recording after mediation pursuant to MCR 3.216(H)(7). Although the mediation agreement involved real estate, it did not violate the statute of frauds, as the acknowledgment on the record and subsequent judgment is a legal alternative to a deed or written conveyance. The court rejected Plaintiff’s claim that she was under duress during mediation due to extreme fear of Defendant as she was represented by counsel in a room separated from Defendant, there was no evidence that Defendant had participated in coercing Plaintiff, and Plaintiff later requested to dismiss her action in order to reconcile with Defendant. Although Plaintiff complained that she only received a $1.2 million settlement and that her attorney negotiated an award of $50,000 in fees, from a marital estate worth $6 million, she did not provide any proof of the value of the estate or that the agreement was unconscionable or a result of fraud. The court did not err in declining to conduct an evidentiary hearing on Defendant’s motion for fees and costs as sanctions for a frivolous motion, because the issues were fully addressed in pleadings and arguments, and the court properly considered the State Bar of Michigan Economics of Law Practice Survey when determining the reasonableness of Defendant’s attorney fees.

**Domestic Relations: Court Rules**

MCR 3.204 The court rule was modified, removing the requirement to file a supplemental complaint for a new custody, parenting time, or support proceeding involving the same
Domestic Relations: Court Rules Continued

family. Basically, new actions regarding the same child must be filed as motions in an earlier action if relief would be available in the earlier action, otherwise new actions are to be filed as a new complaints. New actions involving a different child of the same parents must be filed in the same county as a prior action and assigned to the same judge if that court has jurisdiction over the new proceeding. Whenever possible, all actions involving children of the same parties should be administered together and consolidated, and unless good cause is shown, an order involving a new child of the same parents may modify custody, parenting time and support for all children of the same parents and state that the order supersedes the prior provisions for the same. Subsection (B) remains substantially the same, Subsection (C) requires that, if the court administratively consolidates custody, parenting time, and support provisions of multiple orders, it must state that the order supersedes the provisions in the other case(s) and reference those case(s).

There were no new reported Juvenile Delinquency or Abuse and Neglect opinions prior to the article submission deadline.

LEGISLATIVE UPDATE

Juvenile Delinquency and Neglect

HB 5097: TERMINATION OF PARENTAL RIGHTS IN SAFE DELIVERY OF NEWBORNS CASES


Status: The bill has been reported out of committee and referred for a third reading in the House.

HB 5600: EXPANSION AND CLARIFICATION OF ELIGIBILITY FOR SET-ASIDE OF JUVENILE CONVICTIONS

This bill would expand the number and type of juvenile adjudications that could be set aside. It would allow an individual with two juvenile adjudications and no felony convictions to apply to set aside one or both of the adjudications. If an individual has three adjudications that arose from the same disposition he/she could apply to have all adjudications arising from that disposition set aside so long as he/she has not been adjudicated or convicted of a subsequent felony or misdemeanor.


Status: The bill has been reported out of committee and referred for a second reading in the House.
Juvenile Delinquency & Neglect Continued

Contributed by Shelley R. Spivack

SB 1232: MICHIGAN INDIAN FAMILY PRESERVATION ACT


Status: The bill has been passed in the Senate and referred to the Committee on Families, Children and Seniors of the House.

Custody

SB 1000: LIMITATION ON PARENTING TIME TO COUNTRY THAT IS PARTY TO HAGUE CONVENTION

This bill would amend the Child Custody Act to require a parenting time order to contain a prohibition against exercising parenting time in a country that is not a party to the Hague Convention on the Civil Aspects of International Child Abduction, unless both parents agree in writing to the contrary. The bill can be accessed at: http://www.legislature.mi.gov/documents/2011-2012/billintroduced/Senate/pdf/2012-SIB-1000.pdf.

Status: The bill has been passed by the Senate and referred to the Judiciary Committee of the House following a first reading. Note: the Family Law Section opposes this bill.

SB 743: UNIFORM CHILD ABDUCTION PREVENTION ACT

This bill would create a new “Uniform Child Abduction Prevention Act” allowing a court to order abduction prevention measures if there is a credible risk that a child would be taken or retained in violation of a custody or parenting time order. The bill would also allow prosecutors to seek a warrant to authorize law enforcement officers to enter private property and take physical custody of a child if there is a credible risk that the child is imminently likely to be wrongfully removed.

The court could enter abduction prevention measures in a child custody proceeding on its own motion or upon the filing of a petition by a party or an individual who would have standing to seek custody. Generally petitions could be filed solely if the court has jurisdiction under the UCCJEA; however, a court would have “temporary emergency jurisdiction” if the court finds there is a “credible risk of abduction.” Courts would be prohibited from entering abduction prevention orders if the respondent’s conduct was intended to avoid domestic violence or imminent harm to the child or the respondent.

The bill sets forth a number of acts that could constitute evidence of a credible risk of abduction as well as a list of sanctions that the court could impose, including passport and visa restrictions. In addition, the bill would allow the court to alter the terms of parenting time and to require the respondent to post a bond prior to exercising parenting time. The bill can be accessed at: http://www.legislature.mi.gov/documents/2011-2012/billengrossed/Senate/pdf/2011-SEBS-0743.pdf.

Status: The bill has been passed by the Senate and has been referred to the Committee on Families, Children, and Seniors of the House after its first reading. Note: The Family Law Section supports the bill.
SB 1001: AMENDMENT TO SUPPORT AND PARENTING TIME ENFORCEMENT ACT TO ALLOW FOR FEE COLLECTION BY EMPLOYER

- This bill would amend the Support and Parenting Time Enforcement Act to allow a “source of income” to charge the following fees from payers:
  - $1 each time income is withheld by electronic means, but not more than $2 per month
  - $2 each time income is withheld by other than electronic means, but not more than $4 per month.


Status: The bill has been passed by the Senate and has been reported out of committee and referred for a second reading in the House. Note: The Family Law Section supports the bill.

UPCOMING EVENTS

- **Thursday. December 13, 2012. 11:00 a.m.**
  RAM Board Meeting with the RAM Holiday Luncheon immediately following.
  Redwood Lodge in Flint, Michigan

- **Thursday. January 17, 2013. 10:00 a.m.**
  RAM Board Meeting
  Michigan State Bar Building in Lansing, Michigan
As Family Court referees, the term “marriage” surrounds us daily. Each day as we sit at our desks we try to salvage the damaged remains of once viable marriages. Yet, as we call the cases in and churn out our recommendations, rarely do we have the time or opportunity to think about the meaning or nature of the term.

This coming year, as we perform our child support calculations and wade through the best interests factors, the nine justices on the US Supreme Court have the opportunity to not only think about the nature of marriage, but to revolutionize its definition. Three cases, two considering the federal Defense of Marriage Act and one regarding the California constitutional ban on same-sex marriage, stand waiting for consideration by the Court. While all three cases concern themselves with the meaning and nature of the term “marriage,” the cases present discrete legal issues.

The case that could bring about the most widespread change is Perry v Brown, the challenge to California’s Proposition 8. In 2008, California voters, by a slim majority, passed a constitutional amendment defining marriage as between one man and one woman. In placing Proposition 8 on the ballot, opponents of same-sex marriage sought to overturn the California Supreme Court decision finding that “limiting the designation of marriage to a union between a man and a woman” violated the Due Process clause in the California Constitution. In re Marriage Cases, 183 P2d 384 (2008). In a sweeping 138 page decision containing detailed factual findings based upon the testimony of expert witnesses in fields such as social sciences and psychology, US District Court Judge Walker held that Proposition 8 violated both the Due Process and Equal Protection clauses of the US Constitution. Stripping the term “marriage” of its gendered connotations, Judge Walker compared the ban on same-sex marriage to the bans on interracial marriage; finding that both arose from socially constructed roles and expectations. Following the Supreme Court decision in Loving v Virginia, 388 US 1 (1967), Judge Walker found gendered definitions of marriage unconstitutional. Simply put, Judge Walker defined marriage as “the right to choose a spouse and with mutual consent join together and form a household.”

The Ninth Circuit Court of Appeals, while affirming the decision of Judge Walker, narrowed the scope of the decision by declining to rule on the broader issues of whether same-sex couples have a fundamental right to marry (due process) and if excluding same-sex couples from marrying violated the Equal Protection clause. Relying on the decision in Romer v Colorado, 517 US 620 (1996), the 9th Circuit found that as the state had no legitimate reason to take away a constitutional right previously granted to a minority group under the California
The President’s Corner

By Shelley R. Spivack

constitution, Proposition 8 was unconstitutional.

The other two cases that the Supreme Court has the opportunity to decide are decisions by the First and Second Circuit Courts of Appeals finding a portion of the Defense of Marriage Act (DOMA) to be unconstitutional. In the cases of Hara v OPM and the recently decided case of Windsor v USA, each of the Circuit Courts considered Section 3 of DOMA, which defines marriage as “only a legal union between one man and one woman as husband and wife” for the purposes of federal law. Thus this section denies federal benefits (such as Social Security, VA, immigration, income tax, estate tax, etc.) to same-sex couples who have been legally married in states such as Massachusetts, New York and the seven other states that recognize same-sex marriage. Using a rational basis test, the First Circuit found Section 3 to violate the Equal Protection Clause: “Congress’ denial of federal benefits to same-sex couples lawfully married in Massachusetts has not been adequately supported by any permissible federal interest.” The Second Circuit in the Windsor case goes one step further by applying the “heightened scrutiny” or intermediate scrutiny review and finding that “DOMA’s classification of same-sex spouses was not substantially related to an important government interest.” Thus, while neither court sought to redefine marriage, both upheld the right of states such as Massachusetts and New York to delete all notions of gender from their definitions of marriage.

The landscape of family law in Michigan, with its state constitutional ban on same-sex marriage, would be affected by a Supreme Court ruling affirming the Circuit Court decisions in any of these cases. The most drastic change would be seen if the Supreme Court takes on the Perry case and adopts Judge Walker’s rationale finding it a violation of both Due Process and Equal Protection to limit the definition of marriage to persons of opposite genders. Michigan’s constitutional ban of same-sex marriage most likely would not survive such a ruling. However, even a decision solely affirming the First and/or Second Circuit’s decision in the DOMA cases would have wide repercussions within Michigan as couples lawfully wed in other states would be eligible to receive the panoply of federal benefits available now only to married person of the opposite gender.

So as we sit and render our daily decisions, stop a moment and think about the nature and definition of the term “marriage” and the critical role it plays in the jurisprudence of family law.
WHO WE ARE

The Referees Association of Michigan (RAM) is recognized by the State Bar of Michigan as a special purpose organization. The Association consists of both Juvenile Court and Friend of the Court (collectively referred to as "Family Court") referees throughout the State of Michigan. RAM’s primary function is to educate its members by providing a forum for communication, by holding an annual training conference, and by providing a quarterly publication, called Referees’ Quarterly. RAM also offers guidance to both the State Legislature and Michigan Supreme Court regarding proposed amendments to statutes and court rules. Collectively, the referees who comprise RAM’s membership preside over 100,000 family law hearings every year.

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“Compassionate justice helping children.”

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