These days, jurists are being asked to focus on trial court performance measures. In the area of child welfare, it is difficult to identify measures that will both quantify and recognize the impact that a jurist’s decisions may have on a child in foster care. One way to objectively determine success in foster care is by looking at education.

The State of Michigan is currently focused on improving the educational needs of students in foster care. The Department of Human Services (DHS) has identified social workers in many local offices who serve as educational planners. The function of the educational planner is to act as a liaison between the child welfare system and the education system. Educational planners work with children ages 14 and older. The planners advocate for keeping children in their school of origin whenever possible. If this is not possible, the educational planners assist with school enrollment and the transfer of school records to the receiving school. They also assist with making arrangements for school transportation when needed. For some children, educational planners may provide guidance in developing long-term educational goals and identifying how the goals will be achieved.

Two laws available to educational planners and to others are the McKinney-Vento Homeless Assistance Improvement Act\(^1\) and the Fostering Connections to Success and Increasing Adoptions Act of 2008\(^2\). The McKinney-Vento Act covers homeless children who are not yet in foster care. The Fostering Connections Act addresses the needs of children in foster care who are not McKinney-Vento eligible. Both acts provide for the needs of children awaiting foster care placement. The acts also apply to homeless children who are in foster care (ex. runaway youth) and children living in emergency or transitional shelters.

The transition between high school and post-secondary education can be challenging. Money to pay for college is on everyone’s mind. For foster children, there is a Tuition Incentive Program, otherwise known as TIP. TIP provides tuition assistance to children for the first two years of college and beyond. In order to qualify, a student must

\(^1\) 42 USC §11431
\(^2\) P.L. 110-351
have (or have had) Medicaid coverage for 24 months within a 36 consecutive month period as identified by DHS. A second source of funding for foster youth is Education and Training Vouchers (ETV) which provide for up to $5,000 per fiscal year to cover tuition and fees, room and board, student loans, books, school supplies, transportation, personal computer, miscellaneous personal expenses, health-care expenses and child care. A third type of funding that may be available to children in foster care is Youth In Transition (YIT) funds. These funds can help pay for pre-college expenses such as tutoring, tuition, internships, ACT and SAT testing, GED preparation and testing, extracurricular activities, senior class expenses such as pictures, class rings, senior dues and yearbooks, among other expenses.

There are a number of colleges and universities that are joining in the efforts of DHS. Michigan State University has established the FAME Program. FAME stands for Fostering Academic Mentoring Excellence. FAME offers mentoring, care packages, website support and leadership opportunities to MSU students who used to be in the foster care system. The program does not offer scholarship support; however, it does provide programming support and informs the student of financial resources that may be available.

Several other campuses provide programming and scholarship support to children in foster care. The University of Michigan, Western Michigan University, and Ferris State University offer various programming and scholarship support based on certain criteria. Western Michigan University’s Seita Scholar program offers a life skills coach to help with career and education planning; housing and budgeting; and transportation. At the University of Michigan-Flint, a program called “Mpowering My Success” provides students with a team of mentors, professional staff, and peer advisors to assist students with making the transition to college from foster care. Another college, Aquinas College, awards up to two scholarships each year to incoming freshmen that meet its eligibility requirements. The scholarships cover tuition, room and board, books and activity fees for up to five years if the student is awarded the scholarship and attends full-time. The students can even use the Aquinas College scholarships to attend a semester-long international program, if they are so inclined. Each program is well worth exploring for foster students wishing to attend any of these universities.

Jurists and attorneys working with children can facilitate better case outcomes by actively encouraging students in foster care to have high academic expectations. Frequently, foster children relay that school is the single stabilizing factor for them in the typically chaotic world of foster care. Students should be included in plans for their higher learning. Students should also be supported in preparation for post-secondary programs. Discussions concerning the pros and cons of a GED versus a high school diploma are of value to students exploring these options. Finally, children should have the support they need to adjust to and complete their college or vocational training program.

The State of Michigan and other states are making changes to how education is viewed for students in foster care. The goal is for everyone to raise the bar and help all foster children achieve academic and personal success as they navigate the many educational opportunities becoming available to them now and in the years to come.

CHRISTINE PIATKOWSKI is an Attorney at Law in Brighton, Michigan. She is licensed to practice law in Michigan and Illinois. Ms. Piatkowski has her own general practice law firm that includes particular concentration in the areas of juvenile law, disability law and school law matters. Ms. Piatkowski has extensive experience in representing schools, individuals with disabilities, parents and children. She is involved with a number of private and public agencies and committees devoted to school law and children’s law issues. Ms. Piatkowski is also a frequent presenter and trainer at juvenile law and school law seminars.
Hello,

My name is Art Winther and, as of July 16, 2012, I am the newest Family Court Referee in the 17th Circuit Court in Kent County. Prior to my appointment I was in private practice for 26 years concentrating on Family Law, Neglect and Delinquency matters, and Municipal Law.

Although I have only been a Referee for a few months, I have found it to be both challenging and rewarding. I take great satisfaction in helping people solve their problems. I was not, however prepared for the ever increasing amount of pro-se litigants in Family Court. Whether they be objections to Personal Protection Orders or Pro-Confesso hearings it is becoming increasingly rare to see attorneys appear in front of me on Family Court matters.

Another area new for all of us has been the after-hours Emergency Pick-up Orders. It has certainly been a challenge. I think I’m finally getting the hang of being “on call” during certain nights and weekends.

As you undoubtedly know, learning all there is to know about being a Referee is not easy. However, I have been blessed to be surrounded by extraordinary Judges, especially the Judge on my team, Judge Denenfeld, wonderfully gifted colleagues and an awesome clerk whom all make sure I do not screw things up too badly. We are also very fortunate to have a magnificently supportive Referees Association so that we may share common problems, vent, or simply lend a shoulder to cry on. I look forward to getting to know you all.

Sincerely,

Art Winther
Circuit Court Referee
17th Judicial Circuit
Kent County, Michigan

Over the course of my past almost 22 years in family law, I have often told those who asked about my job that “you can’t make this stuff up.” Now, after almost 4 months with the Friend of the Court, I realize just how true that statement is. There is a lot of material for that book I’ve always said I could write. I can still be surprised by the things that people say and do, just when I think I’ve seen it all.

My private practice was primarily in Oakland County and my clients tended, for the most part, to be somewhat affluent. I realize now how spoiled I was by both the economics of the cases I handled as well as the court resources that were available to me. I now work in Shiawassee County where, according to the 2011 statistics I found online, the median income is just a little over half of the median income in Oakland County. I could probably count on one hand the number of cases I handled in private practice where there was public assistance, and now that is an everyday occurrence. Of course, that leads to difficult support situations. However, I also see many couples who agree to share physical custody and parenting time on a fairly equal basis without even questioning it. This often comes from economic necessity, however. In the end, the kids usually benefit, so I guess the reason doesn’t really matter. A hearing with attorneys is the exception rather than the rule and I am quickly learning the special challenges of dealing with parties representing them-

[Continued on Page 4]
In Rugiero v Dinardo Unpub Ct App # 301829 6/19/12 the Court of Appeals upheld the trial court’s interim award of $10,000 in attorney fees under MCR 3.206(C)(2)(a) without conducting an evidentiary hearing as to the services actually performed by Defendant’s counsel and the reasonableness of the fee. The Supreme Court, in lieu of granting leave to appeal, vacated the imposition of attorney fees, remanding the case for an evidentiary hearing to determine whether the interim fees award should be imposed or modified, Rugiero v Dinardo _Mich_(2013) Sup Ct # 145577 4/3/13. Leave to appeal was denied in all other respects.

In a hollow victory for the Plaintiff and Plaintiff’s attorney, the Court in Desai v Allyn _Mich Sup Ct_(2013) # 144818 2/6/13, in lieu of granting leave to appeal, reduced the $10,044 attorney fee award in favor of Defendant by $342 for services not incurred in connection with Plaintiff’s divorce complaint. The Court affirmed the remaining $9,702 joint sanctions against Plaintiff and Plaintiff’s attorney for filing a divorce complaint in Washtenaw County Circuit Court when they knew, or should have known, that divorce proceedings had already taken place in the United Kingdom.

The Court of Appeals addressed a unique issue in In re Estate of Burnett; Burnett v Burnett _Mich App_ (2013) #309640 4/16/13. The parties were married in 1984 and separated in 2005, after Defendant underwent gender

Patricia S. Leary
Deputy Friend of the Court/Referee
Shiawassee County

Spring 2013 Referee Legal Update

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

In Rugiero v Dinardo Unpub Ct App # 301829 6/19/12 the Court of Appeals upheld the trial court’s interim award of $10,000 in attorney fees under MCR 3.206(C)(2)(a) without conducting an evidentiary hearing as to the services actually performed by Defendant’s counsel and the reasonableness of the fee. The Supreme Court, in lieu of granting leave to appeal, vacated the imposition of attorney fees, remanding the case for an evidentiary hearing to determine whether the interim fees award should be imposed or modified, Rugiero v Dinardo _Mich_(2013) Sup Ct # 145577 4/3/13. Leave to appeal was denied in all other respects.

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[Continued on Page 5]
reassignment surgery in 2003. In 2011, Plaintiff’s sons were appointed her guardians as Plaintiff was suffering from dementia, and the guardians filed for divorce on behalf of Plaintiff. The trial court granted Plaintiff’s complaint for divorce over Defendant’s objections. Defendant appealed, and Plaintiff died during the appeal. Defendant’s first argument, that the guardians had no authority under Michigan law to file for divorce on behalf of Plaintiff, was rejected based on previous case law. Defendant then argued that because Michigan law only recognizes a marriage between a man and a woman, and because both parties were women at the time of the divorce, the parties were no longer married under Michigan law and the court had no jurisdiction to grant the divorce. The Court of Appeals also rejected Defendant’s second argument, finding that the marriage contract was valid as the Defendant was a man and Plaintiff was a woman at the time that the parties were married, the Defendant’s gender reassignment surgery did not invalidate the marriage contract, and therefore the court had jurisdiction to grant the divorce.

In Garofali v Renaud Unpub Ct App #311537 3/19/13, Plaintiff filed a motion for equal parenting time based on his claims that he could help the child with homework and extracurricular activities, that the child needed to bond with his new wife and stepson in a new home and neighborhood, that the current schedule was too disruptive, and that the child was older. The Court of Appeals found that the trial court properly denied Plaintiff’s motion based on a lack of a change of circumstances to warrant modification of the parenting time schedule, stating that a significant fact in Shade v Wright, 291 Mich App 17 (2010) was the extensive travel to exercise parenting time between two states. The court also properly denied admission of “expert testimony” regarding research and studies favoring shared parenting time as the “expert” had not met with both parents and the child.

After determining that Defendant failed to meet the threshold to change custody, the court in Luebkert v Luebkert, Unpub Ct App # 311016 3/21/13, addressed his request to change parenting time. The court found that Plaintiff’s restriction of Defendant’s phone calls, and refusal to take the children to games, activities, and banquets scheduled by Defendant during Plaintiff’s parenting time does not constitute proper cause to change parenting time. The court noted that Defendant did not have the right to dictate the children’s activities during Plaintiff’s time.

The court was allowed to change custody after numerous parenting time complaints in Kreh v Kreh Unpub Ct App #309618 1/29/13. After multiple parenting time motions, the court-ordered parenting time coordinator raised issues regarding Plaintiff’s anger and bitterness toward, and uncooperativeness with, the Defendant. After complaints of 23 additional denials of parenting time and problems with the child’s school attendance, the court appointed a Guardian Ad Litem, who recommended referral of Custody to the FOC and that Plaintiff undergo a psychological evaluation. The psychologist determined that the Plaintiff had severe preoccupation with the child’s health and recommended a temporary change in custody. The trial court then referred the issue of custody to the Referee, who conducted 12 days of testimony and issued a 155 page report recommending a change of custody. The
Domestic Relations: Case Law Continued

Contributed by Ed Messing

The trial court then changed custody based on the pleadings and referee hearing. The Court of Appeals affirmed, finding that the threshold had been established prior to referring the issue of custody, and the trial court properly changed custody based on the evidence presented during the referee hearing.

When the parties’ daughters in Mell v Reikow Unpub Ct App #304672 1/22/13, refused to stay with Plaintiff during her shared custodial time, Defendant motioned for physical custody, retroactive support, and the right to claim the children as dependents for tax purposes. The trial court granted Defendant custody, but denied retroactive support on the basis that Defendant had precipitated and aggravated the children’s estrangement from Plaintiff. The Court of Appeals reversed the decision denying retroactive support, finding that support should be effective the date of Plaintiff’s receipt of notice of Defendant’s motion, as the infringement of parental rights is not an appropriate reason to deviate from the child support formula.

Juvenile: Neglect

Contributed by Jen Kitzmiller, Berrien County

In re AJR, ___ Mich App __; ___ NW2d ___ (2013) (Court of Appeals #312100, April 18, 2013)

The trial court terminated the father’s parental rights during a step-parent adoption proceeding. The father appealed the termination order. The Court held that, since the father had joint legal custody, MCL 710.51(6) did not apply and reversed the termination order.

The mother and father were married, had a child, and later divorced. In the divorce judgment, the parents had joint legal custody, the mother had sole physical custody and the father had reasonable rights of parenting time. Several years later, the mother re-married. She and the step-father filed a petition to terminate the father’s parental rights and to allow the step-father to adopt. After a two day evidentiary hearing, the trial court found that the father failed to provide support for the child for the two years preceding the petition and the father substantially failed to visit or communicate with the child during the same two year time period. The trial court then terminated the father’s parental rights; and allowed the step-father to adopt.

In reversing the trial court’s decision, the Court applied general principals of statutory interpretation. MCL 710.51(6), the applicable statute in this case, states that “(i)f the parents of a child are divorced….and if the parent having legal custody of the child subsequently marries and that parent’s spouse petitions to adopt the child, the court upon notice and hearing may issue an order terminating the rights of the other parent…..” The Court held that the legislature’s use of “the” parent having legal custody is referring to something particular, so it requires the parent seeking termination to be the only parent having legal custody. If the legislature wanted to refer to something in general, then stating “a” parent having legal custody would allow either parent with legal custody to pursue the ter-
As a result, even though the two conditions to terminate the father’s parental rights were satisfied, the mother did not have sole legal custody and therefore could not file a petition to terminate the father’s parental rights under MCL 710.51(6).

_In re Morris_, ___ Mich App ___; ___ NW2d ___ (2013) (Court of Appeals #312248, March 21, 2013)

This case has a long history through the appellate courts. On May 4, 2012, the Supreme Court conditionally reversed an order terminating the father’s parental rights because the petitioner and the trial court did not comply with the notice requirements of the Indian Child Welfare Act (ICWA) and remanded the case to the trial court to show compliance with ICWA, _In re Morris_, 491 Mich 81; 815 NW2d 62 (2012). At the hearing after remand, all of the notices, proof of services, registered mail return receipts, responses and other correspondence between the caseworker and the tribes were admitted into evidence. Included in the stack of evidence was a letter received from the Cherokee Nation. The letter requested additional information, such as the middle names and the maiden names of the paternal relatives. The caseworker testified that after she received the letter, she immediately contacted the respondent, but the respondent did not have any of the information requested. The caseworker then sent an e-mail to the Cherokee Nation indicating she had no additional information. No response from the Cherokee Nation was received. At the hearing, the referee confirmed with the respondent that he did not have the additional information requested by the Cherokee Nation. The attorney for the respondent requested an adjournment of the hearing to conduct his own investigation to try to find the information requested by the Cherokee Nation. The adjournment was denied. The referee found that, after ample and appropriate notice, there was no indication that the child was a member or eligible for membership in any Native American tribe and recommended termination of parental rights. The trial court approved the referee’s findings. The father appealed the termination order arguing that the ancestry information provided by the petitioner did not meet BIA (Bureau of Indian Affairs) guidelines or the requirements of ICWA.

In affirming the trial court’s decision, the Court held that neither ICWA, BIA regulations nor Michigan case law require the petitioner to conduct independent research to provide a detailed genealogical history. The petitioner is only required to send information that is _reasonably known_. The parents are in the best position to research their own ancestry. The petitioner is not required to locate information that the respondent himself is unable to find. Imposing a burden such as this on a petitioner would only encourage parents to delay the proceedings by providing limited information regarding their heritage. That undermines the time provisions in ICWA which is in place to prevent unreasonable delays and jeopardize permanency and finality. Once the petitioner and the trial court satisfy their obligations under ICWA and the trial court determines that a child is not eligible for membership in an Indian tribe, the burden then shifts to the respondent to prove that ICWA still applies. The respondent did not meet this burden. The trial court correctly determined that proper notice was given as required by ICWA and ICWA does not apply to this case. The order terminating the respondent’s parental rights was _affirmed_.

[Continued on Page 8]
The trial court scheduled a termination hearing and, the day before the scheduled hearing, the trial court convened so the mother could release her parental rights. Instead of releasing her rights, the mother requested an adjournment to seek a different attorney. The trial court denied her request and started the termination hearing as scheduled. After two witnesses testified, the mother decided she wished to release her rights. The trial court asked the mother a series of questions to determine if her decision was knowing and voluntary. The mother said she had mixed feelings, but acknowledged that no one threatened or coerced her or promised her anything in exchange for her releases, that she had time to consider the decision and that her decision was voluntary and knowing. The written releases for each child in the file stated that her legal rights had been fully explained, that she did not have to sign the releases and, that if she did, she would be giving up permanently all of her parental rights to the children. In addition, the mother’s attorney indicated that he read the petition out loud to the mother to make sure she understood.

In the vacated published decision, the Court believed that the releases were executed under the Juvenile Code as opposed to the Adoption Code and concluded that the mother’s releases did not need to comply with §29 of the Adoption Code (MCL 710.29(6)). Nonetheless, the Court held that any release of parental rights under the Juvenile Code must also be knowing and voluntary. Based upon the record, the Court found that the mother’s releases were knowingly and voluntarily made. The mother also argued that she was not competent to relinquish her parental rights or the trial court should have ordered a competency evaluation to determine if she was competent to release her rights. The Court held that the standards used to determine competency in the criminal proceedings also apply in termination of parental rights proceedings, but even though she had misgivings, there was nothing in the record to show that she lacked the competency to understand what she was doing when she signed the releases.

In the unpublished final opinion of the Court, it appears that the mother’s releases were truly taken under the Adoption Code, not the Juvenile Code. The record of the lower court was confusing. When the trial court accepted the releases, terminated her rights and committed the children to the Department of Human Services, the intention was that it be done under the Adoption Code and the forms and orders used were Adoption Code forms and Orders. The trial court, however, put the juvenile case number on the forms and orders and it was done during the juvenile termination proceeding. After the releases were executed, the trial court then terminated the father’s parental rights under the Juvenile Code. The Court urged the trial courts to not mix Juvenile Code and Adoption Code files or proceedings to avoid confusion. The trial judge should have taken a recess in the juvenile case and started the adoption proceeding. After taking the mother’s releases in the adoption proceedings, the juvenile proceeding could then reconvene to complete the termination of the father’s parental rights. The trial court at that time could have, and should have, entertained and taken under advisement a motion to dismiss the juvenile termination proceeding against the mother, scheduling a decision for after the time period for the mother to request a rehearing or filing an appeal in the adoption file. If the mother did not request a rehearing or file an appeal, then the motion to dismiss the termination proceeding against the mother could be granted.

The bottom line was that there was no plain error in the trial court’s decision that the mother’s releases were knowingly and voluntarily made. In addition, although the mother had misgivings about releasing her parental rights, there is nothing in the record to indicate that she lacked the competency to understand what she was doing. The Court affirmed the order terminating the mother’s parental rights.
Juvenile and Neglect

SB 304:  AMENDMENT TO REVISED SCHOOL CODE
This bill would require each Intermediate School Board and County Prosecutor to develop and implement a local truancy policy stating all school attendance requirements and truancy prevention steps. The bill also requires State Board approval of the local policies. The bill can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/Senate/pdf/2013-SIB-0304.pdf
Status:  Referred to Committee on Education

SB 305, 306:  SUSPENSION OF DRIVER'S LICENSE DUE TO TRUANCY
These bills would require the Secretary of State to suspend the driver’s license of juveniles under court jurisdiction for truancy for a period of 6 months from the date of disposition; or in the case of an unlicensed juvenile, it would prohibit the Secretary of State from issuing a driver’s license for 6 months from the date of disposition. These bills can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/Senate/pdf/2013-SIB-0305.pdf
Status:  Referred to Committee on Education

SB 319:  SENTENCING OF JUVENILES TO LIFE WITHOUT PAROLE
This bill would amend the Code of Criminal Procedure in light of the U. S. Supreme Court decision in Miller v Alabama, 567 US ___ (2012) prohibiting mandatory life imprisonment for juveniles. Commencing January 1, 2014, the bill would allow a prosecutor to file a motion to sentence a defendant who has been convicted of First Degree Murder and was under the age of 18 at the time of the offense to life without parole. If the prosecutor fails to file such a motion within 14 days from the date of conviction, the court would be required to sentence the defendant to life with parole eligibility after serving 45 years. The bill sets forth the factors the court would consider in a hearing on such a motion. The bill further takes into account the possibility that the decision in Miller will be applied retroactively by stating that defendants would be eligible for parole after having served 45 years of their term of imprisonment. It would also allow the prosecutor to file a motion in these cases seeking life imprisonment without parole. The bill can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/Senate/pdf/2013-SIB-0319.pdf
Status: Referred to Committee on Judiciary

HB 4356:  BEST INTERESTS FACTORS IN NEGLECT and JUVENILE GUARDIANSHIP PROCEEDINGS
This bill would amend the Probate Code by setting forth specific criteria the court is to consider when making “best interests” determinations under Sections 19a, b, and c of MCLA 712A and Section 5a of the Guardianship Assistance Act, MCL 722.8751. The bill would require the “best interests” determination to be “child-centered” and consider the child’s “safety, permanency, and family connections, with safety being paramount.” The bill can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/House/pdf/2013-HIB-4356.pdf
Status:  Referred to Committee on Judiciary

[Continued on Page 10]
HB 4583: IMMEDIATE TERMINATION OF PARENTAL RIGHTS UPON SENTENCING FOR CERTAIN SEX OFFENSES

This bill would amend the Probate Code by allowing sentencing courts to terminate the parental rights of an individual convicted of a sexual offense against the child or a sibling of the child involving penetration, attempted penetration or assault with intent to penetrate if termination is in the child’s best interests. A separate termination hearing would not be required. This bill can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/House/pdf/2013-HIB-4583.pdf

Status: Referred to Committee on Criminal Justice

SB 131: PROHIBITIONS ON GRANTING CUSTODY / PARENTING TIME TO REGISTERED SEX OFFENDERS

This bill would amend the Child Custody Act by prohibiting the granting of custody or parenting time to a parent who either is required to register as a sex offender for an offense involving a child or who resides in the same household with such an individual. The prohibition could be overcome if the party seeking relief shows by clear and convincing evidence that custody or parenting time presents no substantial risk to the child and shows by a preponderance of the evidence that denying custody or parenting time would create a substantial risk of harm to the child’s mental, physical, or emotional health. This bill can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/Senate/pdf/2013-SIB-0131.pdf

Status: Referred to Committee of the Whole by the Judiciary Committee. Note: The Family Law Section opposes this bill.

SB 325: UNIFORM CHILD ABDUCTION PREVENTION ACT

This bill would create a new act adopting the provisions of the Uniform Child Abduction Prevention Act. It would allow courts in this state to impose measures to prevent the abduction of children; to establish standards for determining whether a child is subject to a significant risk of abduction; and to provide remedies. This bill can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/Senate/pdf/2013-SIB-0325.pdf

Status: Referred to Committee on Judiciary

HB 4120: PRESUMPTION OF JOINT CUSTODY

This bill would amend the Child Custody Act by creating a presumption of joint custody in disputes between parents except where the court finds by clear and convincing evidence that a parent is unfit, unwilling, or unable to care for the child. The bill limits a finding that a parent is “unfit” to situations where the parent’s parental rights would be subject to termination under MCL 712 A. 19B. The bill would also require the child to reside with each parent for substantially equal amounts of time. The bill can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/House/pdf/2013-HIB-4120.pdf

Status: Referred to Committee on Judiciary. Note: The Family Law Section opposes this bill.
Family Law Continued

HB 4336: EXTENSION OF CHILD SUPPORT BEYOND AGE OF 18
This bill would amend MCL 552.602 and 6055b so as to allow the court to order support for a child beyond the age of 18 in cases where the child is not regularly attending high school if the child has a developmental disability or is mentally retarded. This bill can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/House/pdf/2013-HIB-4336.pdf
Status: Referred to Committee on Judiciary. Note: The Family Law Section opposes this bill.

HB 4054: DEFINITION OF ELIGIBLE DOMESTIC RELATIONS ORDER
This bill would amend the Eligible Domestic Relations Order Act to provide for a 60-day period during which a domestic relations order that did not qualify as an eligible domestic relations order (EDRO) could be corrected. This bill can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billengrossed/House/pdf/2013-HEBH-4054.pdf
Status: Passed by the House and referred to Committee of the Whole in the Senate.

HB4060: SECOND PARENT ADOPTION
This bill would amend the Probate Code by allowing two unmarried persons to adopt a child. This bill can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/House/pdf/2013-HIB-4060.pdf
Status: Referred to Committee on Families, Children, and Seniors

HB4584: TERMINATION OF GRANDPARENTING TIME ORDER UPON SENTENCING OF CERTAIN SEX OFFENSES
This bill would amend MCL 722.27b by allowing sentencing courts to terminate grandparenting time orders of an individual convicted of a sexual offense involving penetration, attempted penetration or assault with intent to penetrate on a child or a sibling of a child. A separate hearing would not be required. This bill can be accessed at: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/House/pdf/2013-HIB-4584.pdf
Status: Referred to Committee on Criminal Justice

UPCOMING EVENTS

- **Wednesday, May 22, 2013 - Friday, May 24, 2013.**
  RAM Annual Training Conference at
  Stafford’s Perry Hotel in Petoskey, Michigan
  For additional info, visit www.referees-association.org

- **Thursday, July 25, 2013, 10:00 a.m.**
  RAM Board Meeting at the Genesee County Bar Association in Flint, Michigan

- **Thursday, September 19, 2013. Noon.**
  RAM Board Meeting (during State Bar Meeting)
  in Lansing, Michigan (Location TBA)

- **Thursday, November 21, 2013. 10:00 a.m.**
  RAM Board Meeting at the Michigan State Bar Building (Hudson Room) in Lansing, Michigan

- **Thursday, December 12, 2013. 11:00 a.m.**
  RAM Holiday Luncheon (Location TBA)
## 29th Annual RAM Conference Schedule

**Petoskey, Michigan; Stafford’s Perry Hotel | Wednesday, May 22 - Friday, May 24, 2013**

**Wednesday, May 22, 2013**

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<td>12:00 p.m. to 1:45 p.m.</td>
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| 2:00 p.m. to 4:00 p.m. | **Presentation:** Debra Poole, Ph.D.  
An experimental child psychologist who specializes in child development and social policy, Ms. Poole is a national authority on children’s memory, children as eyewitnesses and forensic interviewing. She will speak on recent developments in communication, understanding, and interpreting what children say and what they mean. |
| 4:00 p.m. to 4:30 p.m. | **Presentation:** Edward Messing — Case Law Update.                                      |
| 4:00 p.m. to 6:30 p.m. | **Hospitality Suite:** Meet and greet fellow Referees.                                    |
| 6:30 p.m. to 8:00 p.m. | **Group Dinner — Park Place Hotel**                                                       |
| 8:00 p.m. to ???   | **Hospitality Suite** will be open. Come and enjoy some rest and relaxation!              |

**Thursday, May 23, 2013**

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<td>7:30 a.m. to 9:00 a.m.</td>
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| 9:00 a.m. to 12:00 p.m. | **Presentation:** Michael Freytag, MA, LPC, NCC, CBT, TFT, Dsx,  
will be presenting on the nature of children’s illnesses, including, autism, bi-polar disorder, Attention Deficit Hyper Disorder (ADHD). He will discuss how they are diagnosed, the various methods of treatment and medications, including when and when not to use. His focus will be on enabling Referees to determine how best to handle children and families with these diagnoses. |
| 12:00 p.m. to 2:00 p.m. | **Lunch** (on your own)                                                                    |
| 2:00 p.m. to 2:30 p.m. | **Presentation:** Bridget M. McCormack, Justice, Supreme Court of Michigan.  
Justice McCormack will speak to the Referees on the court and issues facing family court. |
| 2:30 p.m. to 3:30 p.m. | **Breakout Sessions:**                                                                    |
| 3:30 p.m. to 5:00 p.m. | **Joint Roundtable Discussion.** Topics: to be announced.                                |
| 5:00 p.m. to ???   | **Hospitality Suite** will be open.                                                        |
| 6:00 p.m.         | **Dinner** (on your own)                                                                   |

[Continued on Page 13]
<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
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<tbody>
<tr>
<td>8:00 a.m. to 9:30 a.m.</td>
<td>Breakfast Buffet</td>
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<tr>
<td>9:30 a.m. to 10:30 a.m.</td>
<td>Executive Board Meeting: All are welcome to attend.</td>
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<tr>
<td>10:30 a.m. to 11:15 a.m.</td>
<td>Presentation: Lannie McRill, MA, LLP – Mr. McRill will address the use of synthetic marijuana and abuse of prescription medication.</td>
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<td>11:15 a.m. to 12:00 p.m.</td>
<td>Awards Ceremony and Conclusion of Conference. (Please turn in your evaluation forms).</td>
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**SPECIAL GUESTS:**
- **Brian Zahra**, Justice, Michigan Supreme Court
- **Erin Frisch**, Director Operations Division, Department of Human Services
The President’s Corner

Contributed by Shelley R. Spivack

Well, these—these considerations are why domestic relations pose the hardest problems for judges. Our domestic relations judges all by themselves every day have these difficult problems. If we could appoint King Solomon, who was the first domestic relations judge, as special master, we could do it. But we can’t do it.

These words, uttered by U.S. Supreme Court Justice Anthony Kennedy during the recent oral argument in the case of Adoptive Couple v Baby Girl, (a.k.a. the Baby Veronica case), are not part of the dialogue we would expect to hear in the midst of a contentious U.S. Supreme Court argument. But as family law once again has landed at the doorsteps of the Supreme Court, the Justices wrangled amongst themselves and with counsel over the meaning of such seemingly simple terms as “parent,” “family,” and “custody.”

After last month’s arguments over the meaning of the term “marriage” in the Proposition 8 and DOMA cases, the nine Justices once again have entered into the wild and wooly world of family law in this emotionally charged case involving the intersections of state adoption law and the federal Indian Child Welfare Act (ICWA).

At the center of this case is a 3 ½ year old little girl whose mother attempted to put her up for adoption at birth and whose father, a member of the Cherokee Nation, objected to the adoption. The central issue to be decided by the Court is a thorny one which has no easy answers: Does state law or ICWA prevail when deciding an adoption initiated by an unmarried custodial parent? While both the trial court and the Supreme Court in South Carolina held that ICWA prevailed and ruled in favor of the biological father, politics and polemics seem to have overtaken the legal issues as the case has moved on to the U.S. Supreme Court.

The rhetoric employed by many editorial writers (including The New York Times and The Washington Post) and pundits harks back to the Baby M and Baby Jessica cases which pitted the rights of biological parents against the rights of adoptive parents. The media has portrayed father as a “deadbeat dad” who gave up his parental rights and is now using his Indian heritage as a means to take the child away from her loving adoptive parents. We see ICWA being labeled not as an Act to protect Indian families from “abusive child welfare practices that resulted in the separation of large numbers of Indian children from their families and tribes through adoption or foster case placement” but as an overreaching act of federalism resulting in preferential treatment for Indians and reverse discrimination against whites. The framing of the story in this manner is being used by many as a call to limit or even overturn ICWA.

As a family court referee I truly appreciate the wisdom of the family court judge who wisely denied the adoption and ordered that the child immediately be returned to her father (with whom she now has been
living for the last 1 ½ years). While it is not easy to remove a two year old child from the only home she has known and place her with someone who is a virtual stranger, the court correctly focused on the impropriety of the child’s original move to South Carolina with the adoptive parents (due to misinformation given by the mother about the father’s Indian heritage) and the father’s immediate efforts to establish paternity and stop the adoption when he was finally served with the papers that had been filed four months earlier by the adoptive parents. Finding that the terms of ICWA governed the action as the child was an “Indian child,” the trial court held that father was a “parent” as defined by ICWA; that he did not consent to the adoption; and that the adoptive parents had failed to prove by clear and convincing evidence that his parental rights should be terminated.

The Indian Child Welfare Act is an important piece of federal legislation that since its passage in 1978 has worked to help reverse the damage inflicted upon Indian children and tribes by adoption policies that separated Indian children from their families, homes, and culture. Michigan has recognized the importance of maintaining the integrity of Indian families through the passage of its own version of ICWA, the Michigan Indian Family Preservation Act MCLA 712B.1 et seq. While ICWA has been successful, recent data has shown that Indian children still continue to be placed in non-Indian homes. Now is not the time to turn back the clock and revert to pre-ICWA practices.

Hopefully, the Justices will reflect upon Justice Kennedy’s words and uphold the difficult decision made by this South Carolina family court judge.
THE REFEREES ASSOCIATION OF MICHIGAN

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, *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.

MISSION STATEMENT

Founded in 1984, the Referees Association of Michigan (RAM) is a special purpose bar organization recognized by the State Bar of Michigan that consists of attorneys who serve as juvenile and domestic relations referees throughout the State. RAM’s primary focus is to educate its members through an annual training conference, its publication, *Referees Quarterly*, and a listserv. RAM’s mission is also to contribute to the improvement of the legal system by appointing members to serve on numerous State Bar and State Court Administrative Office committees, and by offering comments to proposed legislation and court rules.

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