

The San Diego Family Law Council For Children Newsletter

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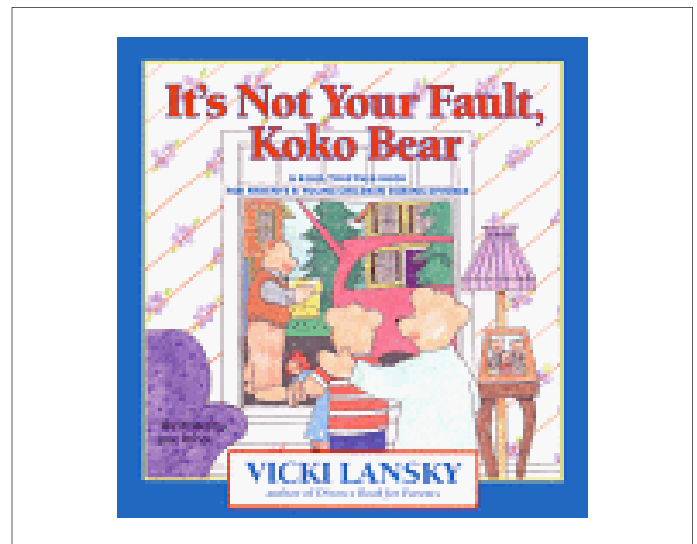
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SAN DIEGO FAMILY LAW COUNCIL CONTINUES BOOK DISTRIBUTION PROGRAM

The SDFLCC's distribution program of the book *It's Not Your Fault Koko Bear* has been a very tremendous success. As a result, the Council announces this book distribution program.

This book, which has earned 5 stars on Amazon.com is a must-read for parents and young children experiencing the breakup of the family. SDFLCC is pleased to make this book available at a discount to attorneys, counselors, therapists and all professionals who work with divorcing children, parents and families at the discounted price of \$5.00 for distribution to clients. Members of SDFLCC have also purchased the book so that



Caption describing picture or graphic.

copies can be distributed at no cost to children/families who otherwise could not afford to purchase the book.

To learn more, contact Susan Griffin at 619.294.9852 or e-mail us at info@sdcouncil4children.org

AN INTERESTING WEBSITE

Children's Rights Council www.Childrens-Rights.Org

The Children's Rights Council is a nationwide non-profit organization established in 1985 with the goal of maintaining for children "meaningful and continuing contact with both their parents and extended family regardless of the parents' marital status."

Articles and information on the site are directed to both professionals and parents. There are links to affiliate organizations nationwide and

in other countries and an on-line bookstore where helpful books and publications for children and adults can be purchased.

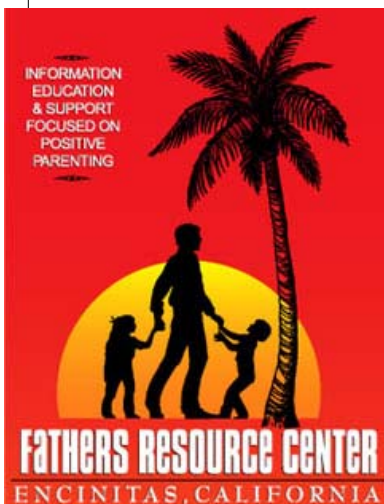
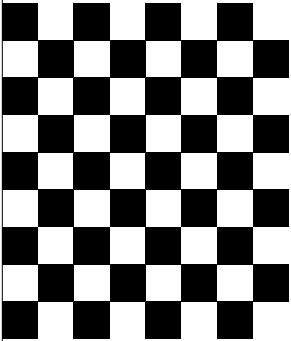
Statistics, news items and pending legislation, articles addressed to step-parent and grand-parent issues, and on-line copies of their quarterly magazine, "Speak Out for Children," can be found on the main website.

There is also a link to their site addressed specifically to parents, www.info4parents.com, giv-

ing them tips on parenting and divorce, personal success stories shared by other parents

Their 14th National Conference and workshop held last November, on the subject of "Effecting Positive Outcomes for Children," offered training useful for professionals who have to deal with child custody issues. The site is worth watching for the announcement of their 15th National conference, this year.

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AGENCY PROFILE: FATHERS RESOURCE CENTER

An Interview with Executive Director David C. Bruer, M.A. with Donna Mallen, Esq, CFLS

DM: Hi Dave. The Fathers Resource Center is a non profit 501(c)3, correct?

DB: Hi Donna, yes it is.

DM: Could you please share with us what FRC is all about?

DB: Yes, and thank you for profiling our agency for the San Diego Family Law Council's newsletter. In addition to our mission statement and specific goals, the bottom line is that we hope to be leaders, along with others in the community, in striving to achieve fairness, equity, and balance related to parenting arrangements when there has been, or there is a pending, "family reorganization" such as happens in divorce. We continue to explore issues that impact all members of the family with special emphasis on concerns related to "best interests." And, let me tell you...well, I probably don't need to tell you, but determining "best interests" can be like having twenty witnesses to an accident!

DM: Can you clarify what you mean by that?

DB: Sure, I would be glad to because it leads into what, let's see, I think it was Judge Bostwick, who referred to "layering" at a past roundtable of judges. Wow, that was back in September of 2002, I think. It often happens in child custody litigation that so many professionals get involved on both sides or all sides of a case that it becomes so convoluted and so "layered" that it also becomes cost prohibitive for the parties. Are we best serving our children this way? So, the "twenty witnesses" tell twenty different versions. The point is: cases get layered with professionals and experts and they all have a different opinion, or version, as to what is in the "best interests" of the children. And we have concerns that these cases are so cost prohibitive to many caring, loving, nurturing parents with wonderful children; even without the "layering."

DM: What specific services do you offer the fathers you work with?

DB: Well, the first thing I would like to clarify is that while most of the folks we work with are men, we are a resource center for all members of the community. I would say from past logs that almost 42-45% of our calls are from women. They're often second spouses, girlfriends, grandmothers, other extended family, and other professionals. I like to see that, I encourage those calls. I think it only helps to get the word out and create some dialogue. FRC offers mediation, parent education, paralegal services, counseling, case construction and an extraordinary amount of resources and referrals from books to videos to professionals that may be helpful to a parent having any number of concerns.

DM: You mentioned a mission statement. What is the mission statement for FRC?

DB: We exist to provide the community with fathering information, education, support, and prevention programs focused on positive parenting. We serve as the area center for services necessary to develop and maintain an awareness of the rights **and** responsibilities related to fathers of all ages-wed, unwed, divorcing and/or never-married.

DM: That sounds ambitious. Any other issues with which the agency concerns itself?

DB: We promote fair treatment, equitable rights, equal protection and due process for both parents and their children during family crises, reorganization and/or paternity actions. We support shared parenting and a child's right to access his or her parents, stressing that both parents need to support their children-emotionally and conomically. We also promote education, awareness, cooperation, and open communication related to issues associated with gender, family violence, family health, grandparents rights, the extended family, and blended families.

FATHERS RESOURCE CENTER (CONTINUED)

DM: Dave, that is ambitious. Quite a bit on your plate...

DB: It takes some convincing some people at times but we're really trying to make a positive difference focused on positive parenting. Children are a responsibility, not a property to be used in parental tugs-of-war.

DM: What are a few of the FRC's specific goals at this time?

DB: In addition to some of the aforementioned concerns I really look forward to establishing an extensive program for teen fathers in San Diego County. I have been involved in these types of programs and they are so intensely satisfying to all participants. Father involvement on all levels is an integral part of a solid, successful community but it's really a wonderful experience to see the involvement of young dads. And most of them do want to be involved. Let's face it, parenthood can be scary enough for any us but especially for young men and women. Gotta get that funding, you know! We also look forward to establishing a mentoring program utilizing our grandfathers. They have so much to offer and the elderly in our community should be treated with the greatest of respect and allowed to share their knowledge and experiences. The organization is also involved in battling paternity fraud. It is much more of a problem than most folks realize and we hope for legislation to get through and signed during the next go around. I think it would be beneficial to establish a putative father registry in all states similar to the one in Illinois, and we continue to be active in addressing issues related to family violence; that is, balance, equity, and focusing on the fact that restraining orders obtained by way of false allegations and/or used as a tactic are inappropriate and abusive. They're abusive to our children and they do not empower anyone. In fact, people who abuse restraining orders should have much to answer for and they hurt the people that really need them. Just a few projects in the works!

DM: I'll say. Could you briefly describe a "putative father registry?"

DB: Briefly? Well, you know me, I could go on for hours on these topics, but I'll try! The putative father registry is one of those excellent interventions to avoid what I call legalized kidnapping." I first became aware of this type of registry from folks in New York, then Illinois, etc. A putative father may be defined as it relates to this issue as a man who may be the father of a child, but who (1) is not married to the child's mother on or before the date that the child was or is born and (2) has not established paternity of the child in a court proceeding before the filing of a petition for the adoption of the child. Putative fathers may also include males less than 18 years old. Trying to be brief, this will allow for a father to register and all parties would have their day in court, if necessary, before an adoption. Hopefully, then, once this takes affect, adoption and paternity...family law practitioners will take note of important new provisions. Certainly, there are more details to how all of this works and I encourage anyone with an interest to contact me at the FRC.

DM: Thank you. Any final comments for our readers?

DB: Oh, you know, I almost forgot. Yes, the FRC throws the largest Father's Day Party in the world every year at Moonlight Beach in Encinitas; the Father's Day Menehune Surf Classic for kids 12 and under with a special Father/Daughter, Father/Son tandem division (they ride the same board at the same time) and six awesome bands. This year it is June 20 and we'll also have booths and lots to give away including guitars, surfboards, you name it. We get great support from Encinitas Surfboards as our founding partner in the event, Fender guitars, Rip Curl, Billibong, Spy, No Fear, Sticky Bumps, and Guitar Center, to name a few. Excellent party!

DM: That sounds great, and compliments to you and your organization. Thank you for sharing with us the work of a wonderful organization.

DB: You're very welcome. Thanks again for including us. See ya at the beach!

VISIT THE SDFLCC WEBSITE!

www.sdcouncil4children.org

The Council maintains an up-to-date website the discussed Council activities, programs and projects. In addition, the website includes links to other websites providing resources for step-parenting, anger management, domestic violence, supervised visitation, counseling services and parenting classes. You'll also find a bibliography of helpful current books and articles for children, parents and professionals related to issues involved in disputed child custody. Log on and check it out!

KEEPING YOU UP TO DATE

A Brief Review of Regulations Governing Supervised Visitation

-by Susan Griffin, M.S.

January 1, 1998, the Uniform Standards of Practice for Providers of Supervised Visitation (Cal. Standards of Judicial Administration, section 26.2) went into effect and are online at <http://www.courtinfo.ca.gov/rules/appendix/divistandard-69.htm>. The standards were adopted to comply with Family Code section 3200. The standard provided the first statewide framework for providers of supervised visitation, encompassing the areas mandated in the statute: qualifications, experience, and education; safety and security procedures; conflicts of interest; maintenance and disclosure of records; confidentiality; delineation of terms and conditions; procedures for termination; and legal responsibilities and obligations for providers of supervised visitation.

Although there has been much debate and varying differences amongst practitioners regarding the practicality of California's Uniform Standards of Practice for Providers of Supervised Visitation, as well as claims that revisions and amendments to certain provisions of the statute are necessary, the usage and adoption of these standards into overall program operation and administration has at least minimally provided the courts and many parents and children who use these services with some threshold assurance for provider accountability and high quality services.

It is important to note that there currently is no regulatory oversight agency for Supervised Visitation Providers to ensure that providers are complying with the standards, which leaves the responsibility for ensuring professional service delivery up to the individual consumer of services, whether an attorney or a parent or other family member. Consumers are encouraged to learn about the standards prior to contacting prospective providers.

Here are a list of questions consumers should ask a prospective provider: (1) Have you completed 26.2 training? If so, where and when? If not, how do ensure you are 26.2 compliant? (2) How do you conduct your initial screening of each party to determine if the case is appropriate for your service delivery model and setting? (3) When and how do you conduct separate interviews with each of the parties prior to commencing services? (4) How do you orient the children to your services? (5) What documentation do you require from each legal party? (6) Are your safety and security procedures in writing? (7) Is supervised visitation 100% eye shot and ear shot at all times? (8) How do you ensure there is no contact between legal parties with a Restraining Order? (9) What measures do you take to ensure there is no bias, conflict of interest or even the appearance of a conflict of interest in your work?

In San Diego County, the Family Law Division of the Superior Court has divided its Professional Monitor List into two (2) sections: those who have completed 26.2 training and those who have not. The list is maintained and distributed by the Director of Family Court Services (FCS), Ms. Patricia Chavez-Fallon, and a copy may be obtained by contacting her at (619) 557-2100. Ms Chavez-Fallon can clarify the education required by the San Diego Superior Court for inclusion on the 26.2-trained portion of the list.

The San Diego Family Law Council for Children (SDFLCC) has verified the 26.2 training of those professional monitors throughout the county who want a listing on the SDFLCC website. Information on contacting these monitors whose training has been verified by the Council can be found at http://sdcouncil4children.org/links/supervised_visitation_links.htm.

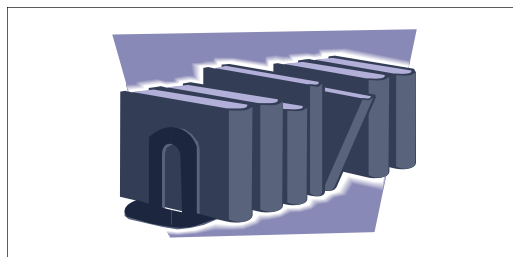
A Task Force of the California Judicial Council drafted proposed revisions and amendments to 26.2 and presented them to the full Council in October of 2003. **The California Judicial Council did not approve the proposed changes but rather voted to send the 26.2 revisions back to the Task Force for further research and revision.** That Task Force is currently drafting revisions and amendments to 26.2 based on further research and expect to post them on the Judicial Council website April 15, 2004 for public comment.

The purpose of both supervised visits and supervised exchanges is to assure that a child can have safe contact with a non-residential parent without having to be put in the middle of the parents' conflicts or other problems. It is the child's need that is paramount in making decisions regarding the need for such an order. However, there are also some significant benefits to parents. It is the hope of the SDFLCC that no one will look upon supervised visitation or supervised exchange as a negative or stigmatized service. It is a tool that can help families as they go through difficult and /or transitional times, in a safe, neutral and child-friendly environment.

What About the Kids? Raising Your Children Before, During and After Divorce

By Judith Wallerstein and Sandra Blakeslee

A book review by Barney Connaughton



Judith Wallerstein and Sandra do-it-yourself instruction manual for children through divorce. The guidelines for considering the communicating with them to prepare for the breakup, to help us identify and resolve problems that may develop after the split, and to help relationship building in the dual-household family. (continued, next page)

Blakeslee provide a hands-on, manual for effectively bringing children through divorce. The book offers age appropriate feelings of our children and

to help us identify and resolve problems that may develop after the split, and to help relationship building in the dual-household family. (continued, next page)

(Book review, Continued)

This book provides a great resource for reducing our anxiety as parents who are looking for guidance on meeting our children's needs through a divorce or are simply seeking reassurance that we are taking proper and appropriate steps. It teaches that through communication and appropriate child involvement we can meet our children's needs now as they are going through the divorce, and in the future when they become involved in relationships of their own.

The first section of the book focuses on the breakup identifying age specific problems that may arise, and how to appropriately discuss issues with the children. The next section focuses on parent to parent interaction including an overview of custodial options. The third part focuses on parent/child alignments after the divorce and the new roles taken on by the parents and children. The fourth section focuses on issues involved in post-divorce relationships and issues arising with the addition of step-parents and step-children. The final chapter focuses on continuing post-divorce discussions with adult children to assure resolution of issues.

Our children will benefit from each parent who picks up this book and seeks to pursue its positive message that while divorce is the failure of one relationship, it presents the opportunity to grow in others, especially those with our children.

IN re MARRIAGE OF LAMUSGA: BURGESS UNDER REVIEW

Submitted by Enrique A. Monteagudo

On Monday February 9, 2004, a major family law event took place. The California Supreme Court heard oral arguments in the *LaMusga* case. With this case, the Court will review its 1996 decision *In re Marriage of Burgess*. This article will brief both cases and offer comments from a child advocacy perspective.

Briefly, *Burgess* involved a custodial parent who wanted to move into a neighboring county to reduce her daily commute. The trial court granted this forty-mile move. The Court of Appeal reversed, but the Supreme Court affirmed the trial court. Since then, *Burgess* has come to be known as the "move-away" case. Currently, if a custodial parent wants to move out of the county with his/her child, against the wishes of a non-custodial parent, *Burgess* is cited and the move-away is usually granted*. Since *Burgess*, many children have had the relationship with their other parent marginalized, and even severed.

LaMusga involves a non-custodial parent who, in November 1998, brought a motion to be given more custodial time with the children (ages 7 and 9), and a subsequent motion by the custodial parent to move 2000 miles away to Ohio. At the time, the non-custodial parent had the two boys overnight on alternating weekends, and for evening visits twice during the week. Also, he claimed the custodial parent was actively alienating his relationship with their sons. The custodial parent sought to move to Ohio because her new husband had accepted a "more lucrative management" position in Ohio and that it was her "presumptive right", under *Burgess*, to move away.

In August 2001, following a psychological evaluation of the situation, the trial court held that it was more important to foster the boys' relationship with their father than to grant the mother's request to relocate. Additionally, the trial court found that there were realistic concerns the father-child relationship would be lost if the children moved. The trial court thus ordered physical custody to the father for the school year if the mother elected to move, and if she remained in California, that the present parenting schedule continue.

In April 2002, the Court of Appeal reversed this decision, but in August 2002, the Supreme Court certified the case for further review. In response, legislation was enacted in October 2003 entitling a custodial parent the right to change the residence of the child, and affirming the *Burgess* decision as "the public policy and law of this state." Also in response, numerous high-power Amicus Curiae (interested 3rd parties) have submitted briefs on both sides of the issue in the instant case.

While the issue raises many considerations, some dealing with the custodial parent's constitutional rights, and others with the non-custodial parent's constitutional rights, it is ultimately a policy decision involving a custodial parent's "presumptive right" to move away with his/her child versus a child's right to the relationship with his/her non-custodial parent. Here, the trial court has indicated that it is more important for these boys to have a relationship with both parents than sparing the custodial parent from what *Burgess* called "Solomonic choices over custody."** This decision tends to side more with the *Burgess* dissent, and the modern dispositive policy of placing the boys needs over those of their parents.

Aside from the description of the competing policies, from a child's perspective, this is just a really bad situation. Ultimately a panel of judges will determine these two boys' future, as well as many others'. When the Court offers its reasoning, hopefully it will address the need of children to have both parents (as evidenced by most recent social research), and resolve the inconsistency between "Solomonic choices" and "child's best interest" identified above.

Furthermore, the Court should consider the concern's of the child advocate, and offer dicta on the fitness of a parent who (1) prioritizes the child's relationship with a parent, *who wants to be involved*, as less important than a new spouse's career enhancement, and (2) unrepentantly *works against* the relationship between the children and a parent. On this point, *Burgess* could be clarified to stand for the general proposition: "the child-parent relationship is a superior concern than almost anything else", and that *Burgess* was not intended to create carte blanche authority for move-aways. This is a reasonable conclusion since *Burgess* did not involve a threat to the child-parent relationship, as was found by the trial court in *LaMusga*. *The Council will provide updates to this issue as they become available.*