HIGH CONFLICT FAMILY COURT CASES AND THE EFFECT ON CHILDREN

Annotated bibliography


Study based on 105 children of parents with acrimonious divorce and custody/visitation issues to examine factors contributing to emotional distress. Review of literature showing poorer outcomes for children of divorce in school, emotional and behavioral functioning, self-esteem; Relevance of age, gender; Conflict more influential than the divorce itself. This study confirms positive relationship between child’s distress and level of marital conflict. Children of fathers with mental illness or substance use more apt to have less contact, more supervised contact. These children fared better than children with mothers with the same liabilities who were less apt to have restrictions imposed. Children with physical symptoms react differently from other children: change in visitation decreased symptoms. All had experienced violence, abuse or maternal mental illness, substance abuse.


Summary of evidence for statement that marital conflict has more negative effects on children’s adjustment than any other researched variable. Because of differences in children, no direct relationship between what parents do, and impacts of such behaviors on specific children. High conflict litigants resistant to usual techniques; spells out techniques needed to create improvement in high conflict cases; PAS controversy.


Summarizes and evaluates major research concerning joint custody and its impact on children’s welfare. Topics: Father-involvement, best interest of the child standard, child support, relitigation costs to the family, parental conflict.


Reviews the range of trauma experienced by many children in supervised visitation services and describes common themes in the development of their personalities from clinical and research findings. Proposes ways to structure access services to help children feel psychologically safe in the relationship with the visited parent.


Incidences of post separation hostility, and extended litigation; Salient features of high-conflict litigating families; Need for interdisciplinary partnerships with the Court; Re-thinking the role of Family Court in divorce matters; Role of attorneys and mental health counselors in escalating conflict; How custody evaluators can help or hinder the process. Alternative programs to litigation described: divorce orientation, specialized education for high conflict, violent and chronically litigating families, affordable legal services, mediation, therapeutic intervention and supervision, co-parenting and arbitration, supervised visitation and monitored exchange, reunification assistance.

H. Mauserall, P. Young, D. Alsaker-Burke, Protecting the Children of High Conflict Divorce: An Analysis of the Idaho Bench/Bar Committee to Protect Children of High Conflict Divorce’s Report to the Idaho Supreme Court, 33 Idaho L. Rev. 291, 1997


1996 CT. study of 137 higher conflict, divorcing families with young children, who received services from the Family Services Division statewide. The families presented with multiple mental health needs, including allegations of substance use and physical, emotional and sexual abuses of spouses in 39% to 58%. Child abuse allegations in 39% of cases. 50% took parent education class and 50% failed to reach agreement in FSU mediation.


Impact of domestic violence on children and need for a rebuttable presumption against orders for custody to abusers. Overview of literature and arguments for such a presumption.


Domestic violence postdivorce and how abused women who have children with their abusers are at high risk. Recent state legislation enacted to deal with post divorce violence. American Law Institute’ s proposed model statute on child custody and visitation when domestic violence has occurred.

Epidemiological scope of divorce conflict, and risks to child, professional contributions to conflict, allegations of endangerment and abuse, (estimates of prevalence of violence as high as 75% in divorcing couples) frequency of physical threats to attorneys, and malpractice and ethics complaints; Prevention strategies: universal health insurance for children, coverage for mental health, universal family-life education, increased access to family support services, marital education, study of specialized marriage contracts, increase support for child care, pre-divorce parenting education, ADR, change legal procedures to reduce children’s involvement, infrastructure improvements to reduce conflict opportunity, improve dialogue between courts and experts, embrace therapeutic jurisprudence, strengthen anti-stalking measure, curb abusive marital litigation, increase options for coping with abduction risk, extend protections against intractable violence, regulate litigation and ethics complaints against court-appointed professionals, financing prevention.


Divorce, unmarried parents, and family court case load increase statistics cited, as well as estimates of chronic litigants; call for prevention strategies and unified family court. 30% decline in children’s standard of living. Public Health theory and Family Conflict prevention programs; resources for pro se litigants, description and evaluation of court education programs for parents and children, group mediation, contempt diversion program, Oregon state-wide comprehensive family conflict management system, resistance of court to prevention programs.

These resources are available for circulation at:

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