

Westlaw

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New York Law Journal
Volume 241
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Wednesday, April 22, 2009
Outside Counsel
THE ROLE OF NONRESIDENT FATHERS AFTER DIVORCE OR SEPARATION
Susan L. Pollet

A man's children and his garden both reflect the amount of weeding done during the growing season--Unknown

In recent years, some professionals have focused upon the changing patterns of fatherhood, and have emphasized that 'fathers are expected to fulfill parenting relationships-- accepting, caring for, supporting and being involved in their child's lives. The term 'father' is no longer unidimensional and automatically determinable.' [FN1] One commentator suggested that fatherhood should be redefined around the concept of nurture. [FN2] In addition, there has been an emphasis in the literature on parenting by non-custodial parents (both males and females) in the context of divorce, and the effect on the well-being of their children.

As set forth in a recent law review article:

[t]he importance of the parentchild relationship, including continuing involvement on the part of the nonresidential parent (most often the father) has been established for children from newborns to adolescents. Furthermore, most children want to maintain relationships with both parents. Importantly, however, given the special importance to children's well-being of a low conflict environment and effective parenting, many experts qualify the importance of continuing contact with both parents in the following way: contact with both parents (or, alternatively, with a noncustodial parent) is beneficial to children if interparental conflict is low and quality of parenting is good. [FN3]

According to some of the literature, '[a]pproximately eighty percent of children reside with their mothers after divorce,' and the majority of fathers 'have little or no contact with their children.' [FN4] Despite changing roles in the last few decades, 'mothers are still typically the primary caretakers of children, especially for infants through preschoolers.' [FN5] Statistics in the literature indicate that '[w]ithin three years of divorce, fifty percent of fathers have either ceased contact with their children or see them quite infrequently.' [FN6]

Further, 'only twenty-five percent of children whose parents are divorced see

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their fathers at least weekly.' [FN7] It has been reported that six years post-divorce, 'as many as 25 percent of children of divorce see their father only once each year.' [FN8] It has also been reported that similar to the findings with mothers:

the quality of fathers' relationships with their children following divorce is positively related to children's well-being. The quality of the relationship is conceptualized, similarly as it is for mothers, to include positive involvement in the children's activities (e.g., homework and school), strength of the emotional tie between parent and child (e.g., feelings of closeness and positive relationships), and authoritative parenting (e.g., effective discipline and positive affective relationships). [FN9]

An illustration of this is the meta-analysis of 63 studies (Amato and Gilbreth (1999)), which found that:

the dimensions of a father-child relationship, which involved feelings of closeness and authoritative parenting, were significantly related to the children's positive well-being (i.e., better academic success and fewer externalizing and internalizing problems) and that these positive benefits were found across gender and age of the children. [FN10]

The authors noted that when fathers are 'abusive or have substance abuse problems, most children are better off with minimal contact,' and that 'encouraging father involvement should not be done in a manner that disadvantages mothers.' [FN11] They further opined that 'the new demographic realities mean that we need a better understanding of how nonresident fathers can contribute to their children's lives' and that the fact that policy 'appears to be moving in a direction that encourages the transmission of nonresident father's social--as well as financial--resources to children is encouraging.' [FN12]

One recent study found that 'under conditions of high conflict, children who do not have a warm relationship with either parent have the highest internalizing problems. However, children have lower internalizing problems when they have a good relationship with either the custodial mother or the noncustodial father, even though they have a negative relationship with the other parent.' [FN13] The authors noted that while 'warm parenting' is generally positively relating to the adjustment of children, it is likely that this would not apply in cases where the parent is abusing drugs or where there is domestic violence. [FN14]

In another study it was reported that the 'vast majority of participants from divorced families desired more father involvement that they had received. As a result, it appears that divorce leaves many children with unmet desires for paternal involvement-- desires that remain salient for many years after the divorce is finalized.' [FN15]

Other literature suggests, however, that 'being together with a child more often

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or longer might not in itself guarantee things will be better for that child (citations omitted). What has been seen to count is the quality of the fatherchild relationship (citations omitted) and the nature and quality of the relationship between the parents (citations omitted).' [FN16]

Programs and Ideas

How can fathers be encouraged to become active participants in their children's lives? One author suggests that states should adopt a bill of rights for children that divorcing parents should commit to uphold; that fathers must attend parent education courses to be educated 'about what happens to children developmentally when they disappear,' that government should provide resources to support non-custodial fathers in their efforts to parent their children, and that other fathers who have mastered the parenting role should serve as mentors. [FN17]

Some professionals have targeted divorced nonresident fathers for preventive efforts 'to assist families after divorce,' and have cited the research literature which suggests 'that such programs should focus both on the frequency and the quality of the child's contact with the father, as well as the quality of post divorce mother-father relations.' [FN18] In a study conducted regarding one such program, Dads for Life (DFL), an eight-week program, it was reported that children in families with fathers who had participated in the program had 'significantly lower internalizing problems,' and the 'preventive impact of DFL was strongest for the most troubled youngsters.'

Another program of note is called 'The Supporting Father Involvement Project,' a clinical and research intervention which focuses on father involvement in low-and middle-income families in California and consists of a 16-week group. [FN19] They have reported success in terms of father-engagement and family well-being.

Are the experiences of nonresident fathers and non-resident mothers different? This was the subject of an international review of the literature. [FN20] The author concluded that:

in many respects, merely by living apart from their children, non-resident mothers and fathers share many similar experiences and problems. Nevertheless, gendered cultural norms and prescriptions surrounding motherhood and fatherhood make non-resident motherhood and non-resident fatherhood two distinct psychosocial phenomena. [FN21]

Thus, the author suggested further research investigating the 'reorganization of parent and child residence arrangements at the point of separation; inquiry into what non-resident mothers and fathers 'actually do when spending time with children'; and further research investigating 'family relationship and post-divorce parenting dynamics.'" [FN22]

While the social scientists have been researching these issues and positing fur-

ther questions, much has been happening in the legal arena regarding the legal treatment of non-custodial parents. It has been described as 'a lightning rod in modern family law.' [FN23]

According to one commentator, the trends suggest that fewer than half, and perhaps as few as a quarter of all children born today will live with both parents throughout their childhoods. [FN24] As a result, a majority of the nation's children will be affected by the defining of the custodial rights of divorced or separated parents.

In an extensive summary of litigation asserting constitutional rights in this context, one commentator concludes that parents are 'not constitutionally entitled to a co-equal role in raising their children following separation or divorce,' and that '[t]he state, in this view, retains considerable discretion to allocate parental authority and access following dissolution, including giving one parent a superior and dominant child-rearing role, without having to prove extraordinary or compelling grounds.' [FN25]

There is great debate across disciplines as to whether or not a presumption for joint custody is the answer. One commentator, in summarizing this issue, notes that the data supports 'the conclusion... that joint physical custody 'seems to be a workable arrangement only for a minority of parents and should not be encouraged as the fair solution for parents who dispute custody or otherwise are in high conflict.'" [FN26] There are new studies exploring the new family form of the 'shared time family' but it is all a 'work in progress.' [FN27]

Conclusion

The statement '[f]acing up to the indissolubility of parenthood is the greatest challenge for the future of family law' [FN28] is an apt description of where attention will continue to be focused in the coming years in this field. Parental education infused with quality information is key.

SUSAN L. POLLET is counsel and director of the New York State Parent Education and Awareness Program of the Office of Court Administration. The views expressed are solely those of the author. ERIN HANLON, a Pace Law School student, assisted with the research for this article.

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