

Trapped: Kids and the Lingering Aftermath of Divorce

BY RICH HARRIS AND ANGELA ARKIN
THE HARRIS LAW FIRM

David lies in bed, staring up at his heavy metal ceiling posters and listening to the sounds of his favorite album blaring from his stereo. With his middle school graduation in the morning, he thinks not of the applause in the auditorium as he receives his diploma but whether his dad will show up and, if so, the terrifying thought of how near he will sit to his mom in the auditorium.

It is widely accepted, and fairly well known, that major parental conflict during a divorce can cause significant harm to children. In fact, studies have shown that this harm may show its impact years, or even decades, after the initial trauma of divorce. Often, it can impede a child's emotional development and relationships throughout adulthood.

Children exposed to high conflict between their parents are at risk for a number of serious problems later in life, which could, at a minimum, be difficulty with future relationships, and at worst be problems with drugs, criminal activity and suicide. Sadly, family law attorneys and judges have seen children suffer all of these effects due to their parents' long-term conflict.

Conflict between divorcing parents too often does not end once the divorce decree is entered. For many broken families, the fighting persists and can plague virtually all aspects of subsequent child rearing. Thus, the parental breakup essentially persists like aftershocks from a terrible earthquake for years to come.

Sadly, for some children of divorce, the conflict between their parents may become the single most pervasive memory of their childhood. This is a terrible tragedy, and we must do more to help these kids. Rather than being focused on dealing with the normal stresses and challenges of adolescence, puberty and their teen years, these kids are constantly agonizing over the saga of their parents' ongoing battles.

The numbers of kids trapped in the middle is probably enormous. We don't have an accurate way of measuring the numbers of kids whose parents continue the conflict after their divorce, but we know that the divorce rate in Western countries remains very high. It is

believed that 40 to 60 percent of all first-time marriages end in divorce. Remarriages fail at an even higher rate. And, perhaps of most concern, the majority of couples who divorce have children under the age of 18.

Domestic relations lawyers and judges have seen many parents in court who felt stuck fighting with each other in high-conflict situations they just couldn't seem to get out of. Instead of the parents working out disagreements themselves, a judge was forced to make parenting decisions for them. Some cases go on year after year with parents returning to the courtroom so that a judge has to settle disputes and make important decisions about their children. Unfortunately, in these types of situations, parents can feel like there's one parent who is a winner and one parent who is the loser. If the judge is deciding the case, it is the children who are the losers, because they live with both parents, they love both parents, and they are caught in the middle of the conflict.

Too many divorce lawyers kindle the conflict and, shamefully, rack up legal fees based on fomenting litigation to increase their billable hours. This system is inherently perilous to the uninformed consumer. Education is needed to help guide consumers to the variety of competent legal services that are available to them.

In most cases, competent legal professionals can help mitigate these ongoing problems. Good lawyers attempt to not only settle cases sooner, thereby limiting the conflict during the divorce, but help their high-conflict clients into support mechanisms such as therapy so that their clients can learn behaviors to co-parent effectively after the divorce. Additionally, good legal agreements help minimize future conflict by promoting clear boundaries and rules in child custody agreements and parenting plans. Clear and detailed agreements provide boundaries to parents who might otherwise fill gaps by promoting a self-serving agenda. Such agreements also contain sensible mechanisms to deal with the inevitable changes that will occur during a child's minority (changes in schools, extracurricular activities, medical needs, etc.).

Parent education and intervention can help. For almost 20 years now, judges in Colorado

have been ordering separating and divorcing parents to take parenting classes focused on teaching parents to work together as co-parents. These classes can help parents understand what they can do to begin reducing the risks and increasing the positive interactions between the parents, not just for their children, but for the parents individually as each moves forward in his or her own life. The classes also teach parents about the developmental needs of children related to the parents moving to separate homes, and help parents understand the emotional impact of the parents' separation on the children. The hope is that many parents will be able to work toward a cooperative co-parenting relationship after separation or divorce and can avoid getting locked into an expensive, contentious legal battle over their children.

Another part of the answer is education and support for these kids. It is clear that counseling can be of great benefit to children who are caught in the middle. But, while many state court systems encourage therapy for children in the midst of litigation, large-scale, ongoing programs for post-divorce kids are exceedingly rare. Thus, kids in high-conflict divorce may only receive post-divorce support if the parents are subject to a court order outlining that support and, even then, only if both parents comply with the ordered counseling.

Interventions by other interested parties can also help. For example, well-intended relatives who are able to put aside their emotional alignments with one side of the conflict can intervene in a positive way. School counselors who are astute enough to perceive the turmoil can be an excellent resource. Additionally, healthy relationships between children and their peers can be a source of solace and positive diversion.

Many parents would also benefit from individual therapy. The goal should be to promote healing from the challenges of their divorce, and to attempt to deal with even hostile ex-spouses from a "business" approach, as opposed to an emotional approach. When parents divorce, their relationship should become that of a business partnership, because the "parenting business" will continue long after

the parents have moved on to new families and new romantic partners. Parents who are able to successfully maneuver this change are giving their children a significant gift. Even after the children become adults, they will benefit from their parents' positive business communication to plan for other important life events such as college, weddings, etc.

Cleaning up and clarifying court orders can also be a big plus. When child custody arrangements are left vague, they are an invitation to further conflict. Parents can always be flexible with their parenting plan when they are communicating well, and both agree with any changes they are making. But coming up with a specific, structured parenting plan can be central to co-parenting: if parents disagree in the future, there is an easy place to look for an answer.

The bottom line, based on all of our years of hearing from families inside and outside the courtroom is this: Working toward a cooperative co-parenting relationship after separation or divorce means parents being willing to examine themselves and take an honest appraisal of who they are as a parent, including their strengths and any challenges they might have. Then, each parent must be willing to learn how to maximize their positives as a parent and to honor the other parent's gifts. This will give their children the best possible result. This is not easy work, but we have confidence that children will benefit greatly if parents take some time to learn to be the best business partner they can be.

The stakes could not be higher. These kids are "caught in the middle", and this phrase has become a pervasive part of our culture. It is wrong and, perhaps with greater intervention and focus, we can help. Otherwise, for these kids, every single game, graduation, vacation and, even wedding, will be colored by the drama surrounding their parents' dysfunction. Childhood should not be this way. We owe these kids more! •

— Rich Harris is a principal at The Harris Law Firm, and Angela Arkin is a retired District Court Judge and director of the Self-Represented Resource Center at The Harris Law Firm

RETWEET

@LAW WEEK

LAW WEEK
COLORADO

FOLLOW LAW WEEK ON TWITTER TO SHARE
THE TOP BREAKING NEWS STORIES FROM
DENVER'S MOST RELIABLE SOURCE
FOR LEGAL NEWS!

 twitter.com/LawWeek