

End Parental Alienation Now

April 25 is Parental Alienation Awareness Day

By **Stephen P. Haller and Jennie L. Osborne** | April 23, 2018

Depending upon the identity of the person being quoted, “parental alienation” is either a myth, a scourge, a court-calendar-clogging phenomenon, a moneymaking opportunity for “deprogrammers,” a heartache for child as well as parent, or a case and fact pattern to be carried home daily in the stomach of the attorney representing the targeted parent.

April 25 is Parental Alienation Awareness Day in the United States and elsewhere. It is one day out of 365 on which public attention is drawn to this very important topic. Let us remember that the children being alienated from a parent, and the targeted parent, suffer every hour of every day of every year, and it is high time for something to be done to stop that.

Perhaps “parental alienation” is most aptly defined as the condition that results from a parent or grandparent denouncing, with continuing, dedicated and pervasive expression of hostility toward or marginalizing the targeted (alienated) parent. The hostility expressed toward the targeted parent results in a child becoming hostile toward and rejecting the targeted parent without just cause. Some dedicated alienators go so far as to make false allegations of sexual abuse of a child by the targeted parent (or convince the child to make the allegations). This not only results in the child being “weaponized” against the other parent, but also drastically raises the stakes and costs of the targeted parent who is trying hard not to lose his or her child or children. The

concept has been variably defined by scholars in a number of articles written over the past 30 or more years by Rebecca M. Thomas, James T. Richardson, Allison M. Nichols and Dr. Richard A. Gardner.

The theft of a child's affection by one parent (or grandparent) from the other parent occurs frighteningly often. Most family practitioners have seen these cases at oral arguments on motion days, and many of us have represented a parent targeted by an alienator. Often, for every attorney representing the targeted parent, there is an attorney advocating for the alienator. Despite being well-intentioned and exercising their best efforts, courts do not always spot alienation at its early stages, adequately penalize it when it occurs, save the children who are being victimized by an alienator, or correct the misbehavior of the alienating parent whether by coercion or other means.

As advocates for a parent being targeted by a spouse or partner, we must alert our clients to the early telltale signs of alienation. The very first time a young child with a previously good relationship with a parent states that he or she no longer wants to stay overnight for some amorphous or inexplicable reason (or for an adult-phrased reason), warning bells should be sounding. A child who refuses to speak to a parent by telephone for no reason whatsoever, is a budding problem. A parent who refuses a child the freedom to talk to the other parent in privacy, is a major problem. As attorneys, specifically those of us who will only represent a targeted parent, what can we do? We must try hard to show the court some "proof."

Proof can be objective or circumstantial. Circumstantial proof is, at the outset, more likely than not the only evidence available. The circumstantial proof of resistance to contact, parroting of adult concepts, a cooling or stiffening of relationships and general avoidance of a parent without just cause, are all circumstantial indications that alienation is occurring. Objective proof may

come later: Seek the services of an expert either partisan (but with an impeccable reputation for honesty and fair reporting) or court appointed. Objective indications of alienation often come from an expert who can, in a non-argumentative fashion, place before the court cogent conclusions, to a reasonable degree of professional certainty, as to whether or not alienation is occurring and if so, by whom. The problem, of course, is by the time the (objective) proof of alienation is available, the cancer of alienation may have metastasized to the point of incurability.

An alienating parent often has no fear of consequences. If the alienator is receiving spousal or child support, or both, it will be a battle to convince a court to cut that support down or off. If that parent succeeds in marginalizing the targeted parent, while collecting support from that person, there will be no coercive measure available to a court except progressively more direct draconian penalties perhaps including a change of custody. New Jersey has taken some very hesitant steps toward rectifying this injustice. *Black v. Black*, 436 N.J. Super. 130 (Ch. Div. 2013), albeit a trial court opinion, gave voice to the concept that there is a limit to society's patience with misbehaving adults and "children" who simultaneously spit on the hand that feeds them, while demanding money from that same person. *Black* does not go far enough in penalizing aberrant conduct; at some point halfway measures must give way to common sense, even if the recalcitrant alienated child and parent will suffer financially. Unfortunately, there are no statutes that specifically address "parental alienation."

So far the focus has been on the alienator, but what evidence of alienation can be gleaned from the behavior of the child who is just as much the target of the other parent? A child who is being attacked by an alienator often perceives the targeted parent as being wicked, evil, disagreeable, abusive,

hateful toward the alienating parent, or guilty of any number of other imaginary misdeeds. These false beliefs are inculcated by the alienating parent and are fed like so much poison to the impressionable child, often with tears or drama, to achieve the nefarious goal of marginalizing the targeted parent.

The targeted parent, assuming he or she intends to fight for the child's right to have two parents in their life, is facing a Hobson's choice: Does the parent accept a drastically constricted relationship with the child, if any? Does that targeted parent spend what often amounts to copious amounts of money on lawyers, experts, reunification programs and the like without any assurance of success? What becomes of those parents who lack the funds to fight for their children's rights? Our purpose here is not to engage in a psychological analysis of the deleterious effects of parental alienation on the targeted parent. We call attention not just to the victimization of children by their alienator but also to the oppression of the targeted parent, the favorable resolution of which depends upon dedication, persistence and willingness to adopt a "long view" since results often do not come quickly. It also requires good lawyering, and a considerable war chest.

In New Jersey we have "drug courts" where the specialized knowledge and expertise to handle those matters is concentrated. Parent alienation is no less a scourge than drug addiction, yet our family court judges are expected to handle cases involving this issue along with the thousands of other cases already on the docket. They are expected to hear motions, orders to show cause, try domestic violence cases, try matrimonial dissolution and custody cases, write opinions after trials (and extensive findings of fact and conclusions of law on motions as well), and still find time to agonize over how best to ensure that children of divorce continue to have two parents in the face of vigorous alienation by one against the other. Why could there not also be a

dedicated “parent alienation court”? Judges could be specially trained and sensitized to these issues in a way that general judicial education cannot match. The resources necessary to combat alienation could be concentrated in each vicinage. One judge would really handle the case from start to finish instead of handing off a sensitive matter three or four times before its conclusion. Perhaps this is not a perfect solution, but every family practitioner knows that what we are doing now is simply not working.

Clogged court calendars and yes, the cost in legal fees of going to court and resisting alienation in the best interests of a child or children are not easily overcome. The definition of “emergency” in Family Court will not assist the targeted parent except in the most extreme cases and even then a poisoned child not wanting to offend his or her alienator may say what pleases that parent and the judge will (of course) not want to upset that youngster. (The truth is that the youngster who is repeating the alienator’s line likely wants to be “forced” to go with the other parent!)

Courts must also become more proactive, and this means serious financial penalties for parents who do or try to alienate a child from the other parent. Fines, sanctions, either or both payable to the Superior Court, and counsel fees should be liberally ordered. It does us no good to say that these rules are already “on the books” in some form or fashion. They aren’t being used. A change of custody should be considered early, not after the alienating parent has had the opportunity irretrievably to poison the child. At a certain age, “children” must also be made to pay a price. A rude, stubborn, disobedient 16-year-old “child” is done no favors if he or she is coddled by the court and not penalized for misbehavior, whether encouraged by a parent or not. That same “child” will shortly have his or her hand out (to the targeted parent) for college

tuition. And the alienating parent as well as the disobedient “child” in most cases will pay no financial penalty.

Should we lawyers question the personal ethics of rendering legal assistance to parents who alienate their children from the other parent? This is not an attack on the right of people to have an attorney represent them. It is a suggestion that an alienator who seeks legal representation from any one of us should be turned away, if we conclude that this person is in fact targeting the child’s other parent. This is not a professional ethics issue; it is a personal and human ethics issue. Preventing, or at least not assisting in, harm to a child should be our primary focus.

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