

Parental Alienation: Overview, Management, Intervention, and Practice Tips

by

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I. Introduction

“The children do not want to see their mother.” Or in another family, “They refuse to leave the house and get in his car when Dad shows up for his weekend.” Such protests, when chronic, firm, without adequate justification, and usually in the context of the children sharing their other parent’s negative attitudes, challenge those who try to alleviate the problem. Judges, lawyers, amicus attorneys and other child representatives, mediators, child custody evaluators, parenting coordinators, psychotherapists, and parents often report being stymied by chil-

dren's refusals to cooperate with the court-ordered parenting time schedule. This is especially true when the children are adolescents.

Parents whom the children reject and parents whom the children favor each argue that the children's behavior merits weight in the court's decisions about custody and access. Rejected parents ask the court to enforce or increase their possession time or to award them sole managing conservatorship. They blame the children's negative attitudes on the other parent's behavior and influence.

Parents whom the children favor ask the court to grant them nearly exclusive parenting time in accordance with the children's stated wishes. These parents also cite the children's wishes when the parents defend themselves against the charge of interfering with custodial access or of violating the court-ordered parenting plan. When they fail to deliver the children in accordance with the parenting time schedule, they plead, "I couldn't get them to go." Just as rejected parents blame the favored parents for the children's negative attitudes, favored parents hold the rejected parents responsible. They argue that the rejected parents are inadequate parents and thus do not deserve their children's respect and affection.

Favored parents' disavowal of responsibility for their children's rejection of the other parent finds support among advocates who claim that the concept of unjustified parental alienation is bogus.¹ They maintain that the concept of parental alienation is merely a legal strategy used by abusive men to deflect blame for their children's fear and hatred of them. In this view, children who reject parents almost always have valid reasons and most hated parents have no one to blame for their suffering but themselves. Such advocates deny any possibility that children's rejection of their parents could have predominantly irrational roots.

In contrast to skeptics who deny the problem's existence are leading authorities who regard favored parents' behavior as psychological abuse when they manipulate and influence children to participate in depriving themselves of love, nurturance, and in-

¹ See NOW Foundation, *NOW Foundation Opposes Phony Parental Alienation Disorder*, Apr. 24, 2010, available at <https://pasisascam.wordpress.com/2010/04/24/now-foundation-opposes-phony-parental-alienation-disorder>.

vovement with their other parent.² Denial of this form of abuse of children is reminiscent of society's denial in the early twentieth century of the widespread prevalence of physical and sexual abuse of children. The prevalence of such denial has prompted surveys addressing the issues of whether children can reject a parent whose behavior does not warrant such rejection, and whether the rejection can be due in part to the influence of the favored parent. A survey taken at the Association of Family and Conciliation Courts' annual International Conference reported 98% agreement "in support of the basic tenet of parental alienation: children can be manipulated by one parent to reject the other parent who does not deserve to be rejected."³

The Diagnostic and Statistical Manual of the American Psychiatric Association 5th edition (DSM-5) has no specific diagnosis named *parental alienation*. But the DSM-5 includes, under the heading "Relational Problems" and the sub-heading "Problems Related to Family Upbringing," two diagnostic categories that describe children who are irrationally alienated from a parent. The first is "V61.20: Parent-Child Relational Problem."⁴ Part of the description reads, "Typically, the parent-child relational problem is associated with impaired functioning in behavioral, cognitive, or affective domains." The examples of impaired cog-

² See STANLEY CLAWAR & BRYNNE RIVLIN, CHILDREN HELD HOSTAGE: IDENTIFYING BRAINWASHED CHILDREN, PRESENTING A CASE, AND CRAFTING SOLUTIONS (2014); RICHARD A. GARDNER, M.D., THE PARENTAL ALIENATION SYNDROME: A GUIDE FOR MENTAL HEALTH AND LEGAL PROFESSIONALS (2nd ed. 1998); Janet R. Johnston & Joan B. Kelly, *Rejoinder to Gardner's "Commentary on Kelly and Johnston's 'The Alienated Child: A Reformulation of Parental Alienation Syndrome,'"* 42 FAM. CT. REV. 622, 626 (2004) (referring to parental alienation as "an insidious form of emotional abuse of children that can be inflicted by divorced parents."); Joan B. Kelly & Janet R. Johnston, *The Alienated Child: A Reformulation of Parental Alienation Syndrome*, 39 FAM. CT. REV. 249, 257 (2001) ("Whether such parents are aware of the negative impact on the child, these behaviors of the aligned parent (and his or her supporters) constitute emotional abuse of the child.").

³ PARENTAL ALIENATION: THE HANDBOOK FOR MENTAL HEALTH AND LEGAL PROFESSIONALS 130 (Demosthenes Lorandos, William Bernet & Richard Sauber eds., 2013); Amy Baker, Peter Jaffe, William Bernet & Janet Johnston, *Brief Report on Parental Alienation Survey* (2011), <http://afccnet.org/members/2011-05-MAY-survey.asp> (last visited Oct. 11, 2011).

⁴ AMERICAN PSYCHIATRIC ASSOCIATION, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 715 (5th ed. 2013).

nitive functioning describe the alienated child's relationship to the rejected parent: "negative attributions of the other's intentions, hostility toward or scapegoating of the other, and *unwarranted feelings of estrangement*."⁵

The second DSM-5 category descriptive of alienated children is "V61.29: Child Affected by Parental Relationship Distress."⁶ This category is used "when the focus of clinical attention is the negative effects of parental relationship discord (e.g., high levels of conflict, distress, or disparagement) on a child in the family."⁷ The descriptions below of the cognitive, emotional, and behavioral problems of children who unreasonably reject a parent in the shadow of that parent's disparagement by the other parent clearly fit in this category. The general acceptance of the concept of unreasonable rejection of a parent as indicated in surveys and in the DSM-5 makes it difficult for professionals to maintain credibility while denying the existence of the phenomenon.⁸

More than 2,700 cases involving claims of children's alienation from a parent were identified in a survey of North American cases published between 1985 and 2011.⁹ Yet the published case law fails to reflect the true incidence of the problem.¹⁰ Case law does not include cases that settle without a trial after litigation commences, cases in which rejected parents lack the emotional

⁵ *Id.* at 715 (emphasis added).

⁶ *Id.* at 716.

⁷ *Id.*

⁸ See Joan B. Kelly, *Commentary on "Family Bridges: Using Insights from Social Science to Reconnect Parents and Alienated Children"* (Warshak, 2010), 48 FAM. CT. REV. 81, 82 (2010) ("A few feminists and legal scholars continue to contest the very existence of child alienation; minimize its severity, impact, and duration; and strongly object to any court-ordered educational or therapeutic interventions. However, there is broad consensus among the mental health and family law community that some older children and adolescents do become pathologically alienated from a parent following separation (footnote omitted) and that the risk of child alienation is increased in highly conflicted separations accompanied by protracted adversarial child custody disputes.").

⁹ PARENTAL ALIENATION: THE HANDBOOK FOR MENTAL HEALTH AND LEGAL PROFESSIONALS, *supra* note 3, at 348; Demosthenes Lorandos, *Parental Alienation and North American Law*, in PARENTAL ALIENATION: THE HANDBOOK FOR MENTAL HEALTH AND LEGAL PROFESSIONALS, *supra* note 3, at 348.

¹⁰ E.g., Nicholas Bala, Suzanne Hunt & Carolyn McCarney, *Parental Alienation: Canadian Court Cases 1989-2008*, 48 FAM. CT. REV. 164(2010).

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and financial resources to pursue what is often a lengthy struggle for meaningful contact with their children, and cases in which rejected parents decide for other reasons not to pursue litigation (such as fear of violence or concern that the children will suffer additional harm during the litigation process).

Extrapolations from various studies conservatively estimate the incidence of alienated children at between two and four percent of those whose parents divorce.¹¹ With more than one million U.S. children experiencing their parents' divorce each year since 1972¹²—not including children who reject parents who were never married to the favored parent—this means each year 20,000-40,000 children, and their rejected parents and often grandparents and other relatives, join the ranks of those who suffer from this problem.

The high incidence of alienated parent-child relationships after divorce leads some commentators to argue that alienation from a parent is a normal by-product of growing up with divorced parents, expected collateral damage. Those who hold this

¹¹ See generally JANET R. JOHNSTON & LINDA E.G. CAMPBELL, *IMPASSES OF DIVORCE: THE DYNAMICS AND RESOLUTION OF FAMILY CONFLICT* (1988); JUDITH S. WALLERSTEIN & JOAN BERLIN KELLY, *SURVIVING THE BREAKUP: HOW CHILDREN AND PARENTS COPE WITH DIVORCE* (1980); Sandra S. Berns, *Parents Behaving Badly: Parental Alienation Syndrome in the Family Court - Magic Bullet or Poisoned Chalice*, 15 (3) AUSTRALIAN J. FAM. L. 191 (2001); Janet R. Johnston, *Children of Divorce Who Refuse Visitation*, in *NONRESIDENTIAL PARENTING: NEW VISTAS IN FAMILY LIVING* 109 (Charlene E. Depner & James H. Bray eds., 1993); Janet R. Johnston, *Parental Alignments and Rejection: An Empirical Study of Alienation in Children of Divorce*, 31 J. AM. ACAD. PSYCHIATRY & L. 158 (2003); Leona M. Kopetski, *Identifying Cases of Parent Alienation Syndrome: Part I*, 27 COLO. LAW. 65 (Feb. 1998); Leona M. Kopetski, *Identifying Cases of Parent Alienation Syndrome: Part II*, 27 COLO. LAW. 61 (Mar. 1998); Leona M. Kopetski, Deirdre Conway Rand & Randy Rand, *Incidence, Gender, and False Allegations of Child Abuse: Data on 84 Parental Alienation Syndrome Cases*, in *THE INTERNATIONAL HANDBOOK OF PARENTAL ALIENATION SYNDROME: CONCEPTUAL, CLINICAL AND LEGAL CONSIDERATIONS* 65, 67 (Richard A. Gardner, S. Richard Sauber & Demosthenes Lorandos eds., 2006); Anita K. Lampel, *Children's Alignment with Parents in Highly Conflicted Custody Cases*, 34 FAM. & CONCILIATION CTS. REV. 229, 232 (1996); Robert J. Racusin & Stuart A. Copans, *Characteristics of Families of Children Who Refuse Post-Divorce Visits*, 50 J. CLINICAL PSYCHOL. 792 (1994).

¹² National Center for Health Statistics, *Monthly Vital Statistics Report*, 39 (12), Supplement 2. U. S. Department of Health and Human Services. (May 1991), http://www.cdc.gov/nchs/data/mvsr/supp/mv39_12s2.pdf.

view believe that courts should adopt a hands-off policy and allow the relationships to take their course without intervention. Social science evidence supports the opposite view that alienated parent-child relationships are departures from the norm.

Only a very small percent of teenagers are estranged from a parent.¹³ Most children whose parents live apart from each other long for good relationships with both parents and want to be raised by both. In my own studies, and those of other researchers, children say that the worst part of divorce is that they do not get to spend enough time with their parents.¹⁴ The majority of children want contact with both parents on a regular basis, and the most common preference among children, and among adults looking back on their parents' divorce, is for parenting plans that more evenly balance their time between homes.¹⁵

This article is about children who do not crave more time with an absent parent. Instead, these children reject one parent,

¹³ ROBERT BEZILLA, THE GALLUP STUDY ON AMERICA'S YOUTH: 1977–1988, 18 (1988) (finding that only five percent of U.S. adolescents reported not getting along with their parents at all); Reginald W. Bibby, *Teens' Enjoyment of Moms . . . and Dads*, Project Teen Canada Press Release #1, University of Lethbridge (2009), http://www.reginaldbibby.com/images/PTC_1_TEENS_ENJOYMENT_OF_PARENTS_May_12_09.pdf; D. OFFER ET AL., THE TEENAGE WORLD: ADOLESCENTS' SELF-IMAGE IN TEN COUNTRIES (1988) (study of 6000 teenagers in ten countries finding that most liked their parents).

¹⁴ E. MAVIS HETHERINGTON & JOHN KELLY, FOR BETTER OR FOR WORSE: DIVORCE RECONSIDERED (2002); WALLERSTEIN & KELLY, *supra* note 11; Richard A. Warshak & John W. Santrock, *The Impact of Divorce in Father-Custody and Mother-Custody Homes: The Child's Perspective*, in CHILDREN & DIVORCE 29, 38, 42–43 (Lawrence A. Kurdek ed. 1983).

¹⁵ DEBORAH A. LUEPNITZ, CHILD CUSTODY: A STUDY OF FAMILIES AFTER DIVORCE 53 (1982); William V. Fabricius, *Listening to Children of Divorce: New Findings That Diverge from Wallerstein, Lewis, & Blakeslee*, 52 FAM. REL. 385 (2003); William V. Fabricius & Jeff A. Hall, *Young Adults' Perspectives on Divorce: Living Arrangements*, 38 FAM. CT. REV. 446 (2000); E. E. Maccoby et al., *Postdivorce Roles of Mothers and Fathers in the Lives of Their Children*, 7 J. FAM. PSYCHOL. 24 (1993); Patrick Parkinson, Judy Cashmore & Judi Single, *Adolescents' Views on the Fairness of Parenting and Financial Arrangements After Separation*, 43 FAM. CT. REV. 429 (2005); Seth J. Schwartz & Gordon E. Finley, *Mothering, Fathering, and Divorce: The Influence of Divorce on Reports of and Desires for Maternal and Paternal Involvement*, 47 FAM. CT. REV. 506 (2009); Virginia M. Shiller, *Joint Versus Maternal Custody for Families with Latency Age Boys: Parent Characteristics and Child Adjustment*, 56 AM. J. ORTHOPSYCHIATRY 486 (1986).

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resist contact, or show extreme reluctance to be in that parent's presence. These children are alienated. Some children have good reasons to reject parents who are grossly deficient. Others reject parents with whom they previously had good relationships, usually paralleling their other parent's negative attitudes. The children's treatment of the rejected parents is disproportionate to those parents' behavior and is inconsistent with the prior history of their affectionate and close relationships.

Children's alienation falls on a continuum from reasonable to unreasonable justification. The situations addressed in this article are those in which the evidence supports the findings that the children's rejection of a parent is not reasonably justified and that it is not in the children's best interests to remain alienated from the parent. Proper management of these cases can spare families severe disruptions in parent-child relationships, and restore positive relationships when prevention efforts fail. Inadequate handling of these cases by attorneys who represent alienated parents can leave clients not only disappointed in their attorneys' work but also deeply bereaved at the loss of their children.

Part II of this article begins with descriptions of common behaviors and characteristics displayed by severely alienated children and the harmful impacts of parent alienation on children's current and future psychological development. These impacts provide the rationale, discussed in Part III, for interventions to remedy the problem. Part IV discusses the contributions of education, psychotherapy, and court orders to preventing alienation from developing or from becoming more severe. Part V describes the potential benefits and drawbacks of the four main options for courts in cases with alienated children. Part VI addresses some concerns about mental health evidence, discusses risks of intervening versus maintaining the status quo in families with alienated children, and describes an innovative program to help alienated children successfully reunite with their rejected parents. Part VII presents practice tips for lawyers and judges.

II. Behavior and Characteristics of Severely Alienated Children

Severely alienated children express extremely polarized views of their parents; they have little if anything positive to say about the rejected parent and often rewrite the history of their relationship to obscure positive elements. They seem content to avoid all contact with the parent, may reject an entire branch of their extended family, and often threaten to defy court orders for contacts with the rejected parent. Severe alienation includes behavioral, emotional, and cognitive dimensions.¹⁶

A. Behavioral Impairments

Severely alienated children treat the rejected parent with extreme hostility, disobedience, defiance, scorn, and withdrawal. They may resist or refuse contact, vandalize and steal property, threaten and perpetrate violence. One boy physically assaulted his mother during a supervised contact. Many alienated children send letters and texts expressing death wishes toward the parent. They defecate on birthday and holiday cards they receive from the rejected parent, under the watch and with the approval of their other parent. Children at the severe end of the parental alienation continuum typically display such venom. Often these children behave well with all other adults except the rejected parent and people associated with that parent.

B. Emotional Impairments

When not treating the alienated parent with open contempt, severely alienated children remain aloof and express no genuine love, affection, or appreciation. They fail to give Mother's and Father's Day cards. Rather than express contrition for behavior that far exceeds the bounds of decency and normal behavior, alienated children show no apparent shame or guilt for mistreating a parent. Severe alienation is not a situation, as one attorney lamely argued, where children merely love one parent a lot more than the other parent. These children harbor strong and irrational aversion toward a parent with whom they formerly en-

¹⁶ Gardner, *supra* note 2; Kelly, *supra* note 8, at 87; Richard A. Warshak, *Severe Cases of Parental Alienation*, in PARENTAL ALIENATION: THE HANDBOOK FOR MENTAL HEALTH AND LEGAL PROFESSIONALS, *supra* note 3, at 125.

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joyed a close relationship. The aversion may take the form of fear, hatred, or both.

On the way to a reunification workshop one night, a child, accompanied by two older siblings, was scared to death about seeing his father. He kept repeating, "He'll kill us," and it was clear that he really believed this. By late next morning, half a day into the Family Bridges™ workshop, the child was playing with the man he had thought would murder him in his sleep. This boy's mother expected the court to respond to the child's expressed fears by allowing him to continue to avoid his father. Instead the court judged her behavior as unspeakably cruel for unnecessarily scaring her child. In most cases of severe alienation, though, children are less filled with fear than with hatred.

C. Cognitive Impairments

The child's thoughts and statements about the rejected parent usually reflect trivial, shallow, and inauthentic complaints, often in words that echo the favored parent, despite the child's claim that the words are his or her own. In some cases, when trivial complaints fail to accomplish the goal of severing contact with a parent, favored parents and children lodge spurious accusations of abuse. A week before the court was scheduled to hear a mother's motion for enforcement of the parenting plan, her son "remembered" that when he was younger, his mother touched his penis when she was tucking him in bed.

Alienated children seem unwilling or unable to exercise critical and logical thinking about their parents. They express greatly exaggerated, polarized, and rigid views about both parents. They claim to have no positive memories or perceptions about the rejected parents, whom they regard as all bad, and obsessively fixate on their hatred or fear of these parents. Many alienated parents hold prominent positions in their fields. In some cases they earn their living saving lives or placing their own lives at risk for their country. (I worked on a case in which the alienated mother was a military doctor deployed in a high conflict war zone.) The rest of the world celebrates their accomplishments in medicine, business, the military, and the arts. But their own children have nothing good to say about these rejected parents.

These children express polar opposite views of the favored parents. Alienated children feel sympathy for their favored par-

ents whom they regard as the rejected parents' victims. The children have difficulty reporting any negative aspects of or experiences with their favored parents. They describe their favored parents as almost without fault.

Alienated children rigidly avoid any information that might modify their fixed negative views of their rejected parents. They rewrite the history of their relationship with the rejected parent to erase pleasant moments. When confronted with evidence of an affectionate relationship, such as greeting cards, photographs, and family videos, they dismiss the evidence with the claim that they were only pretending or that they were coerced into acting happy.

A guardian ad litem showed an alienated teen a photograph of the boy, his younger brother, and mother huddled together and grinning. The mom's right arm extended around the boy's back with her hand resting in plain view on his shoulder. Her left forearm and hand were across the younger boy's chest. Despite both of his mother's hands being plainly visible in the photo, the boy insisted that the reason he was smiling was that he was being pinched.

Distorted memories and perceptions sometimes reach bizarre proportions, as in the case of children who came to believe that their mother was not their mother and that their stepmother and her family were their only true biological maternal relatives. Uncritical acceptance of the favored parent's representations about the other parent resembles the behavior of cult victims and their dependence on the cult leader.¹⁷

In place of critical thinking, alienated children demonstrate knee-jerk support of the favored parent's position in any situation where the parents disagree. Some children ask to testify against a parent in court, or to speak with the judge to lobby for their favored parent's position in the litigation. One of the most pernicious signs of unreasonable alienation is *hatred by association*—the spread of hatred to people and even objects associated with the rejected parent, such as members of the extended fam-

¹⁷ See Amy J. L. Baker, ADULT CHILDREN OF PARENTAL ALIENATION SYNDROME: BREAKING THE TIES THAT BIND 46-47 (2007); CLAWAR & RIVLIN, *supra* note 2 ; RICHARD A. WARSHAK, DIVORCE POISON: HOW TO PROTECT YOUR FAMILY FROM BAD-MOUTHING AND BRAINWASHING 24 (2010).

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ily, therapists, and pets.¹⁸ Sometimes in the absence of any intervening contact, children's thoughts about formerly beloved relatives transform from highly positive to complete devaluing.

Children in these situations learn to curry favor with one parent by echoing that parent's complaints about the other parent. They learn that one parent will be displeased if the children show signs of connection and affection with the other parent. Many alienated children stop addressing the parent with terms of affection like Mom, Mommy, Dad, or Daddy.¹⁹ Instead they refer to the rejected parent by first name or formally as Mother or Father. Many alienated children will use the favored parent's pejorative term for the rejected parent and his or her new partner. Despite using the favored parent's words, alienated children insist that their complaints are self-generated, independent, and completely unrelated to the favored parent's attitudes and influence.

Even when children sign their name to letters dictated by their favored parent and addressed to the rejected parent, the judge, or the judge's appointee (e.g., evaluator or amicus attorney), the children deny the favored parent's role. The letters often include inadequate attempts to appear generated by the child, such as obvious spelling errors, but tip their hands with adult phrasing and sentence structure, sometimes including legal jargon and information related to the litigation from which children should be shielded. In an interview with the judge, a girl tried to repeat her mother's arrogantly phrased analysis of the court-appointed counselor's incompetence. She garbled her prepared script and meekly told the judge that it was in the letter she had previously sent to the judge. The judge corrected the girl's mistake and the girl replied, "Yeah, that's what I meant."

Although others see clearly that a child's negative attitude toward one parent developed in the shadow of the other parent's hostility, the alienated child disavows any such influence. Instead the child blames the rejected parent and relatives for provoking the child's hatred, but the child often gives vague reasons for the rejection.

¹⁸ WARSHAK, *supra* note 17, at 49.

¹⁹ *Id.* at 145.

III. Rationale for Interventions with Alienated Children

Some custody evaluators, parents, and attorneys oppose interventions for alienated children if the parent-child conflict is an exception to a child's apparent good adjustment in other spheres, such as in school and with peers. Particularly with adolescents, some professionals believe that if the child is doing well in other aspects of life, the child should be empowered to make decisions regarding contact with a parent. Some professionals argue against court-ordered counseling for resistant youth because it is unsuccessful and leaves them feeling angry toward the court or the rejected parent.²⁰ Other professionals counsel a hands-off policy toward these children until more studies surface that document long-term damage of growing up irrationally alienated from a parent.

Those who work directly with families in which children's affections have been poisoned against a parent and other relatives do not believe that apparent good adjustment in other areas trumps the need to relieve children and their parents from unreasonable alienation. Three rationales support efforts to intervene on behalf of alienated children. First, children's apparent good adjustment may be superficial. Second, regardless of adjustment in other spheres, the state of being alienated from a loving parent is accompanied by significant psychological impairment. Third, growing up apart from and in severe conflict with an able parent risks compromising children's future psychological development and interpersonal relationships.

A. Hidden Dysfunction

Parents and courts, and those who assist them in determining children's best interests, should consider the likelihood that alienated children who appear to be thriving may suffer psycho-

²⁰ Janet R. Johnston & Judith Roth Goldman, *Outcomes of Family Counseling Interventions with Children Who Resist Visitation: An Addendum to Friedlander and Walters (2010)*, 48 FAM. CT. REV. 112, 113 (2010). But see, Richard A. Warshak, *Ten Parental Alienation Fallacies that Compromise Decisions in Court and in Therapy*, 46 PROF'L PSYCHOL: RESEARCH AND PRACTICE, 235, 241 (2015) ("It is an error to assume that [adolescents] do not benefit from an assertion of authority on the part of the court and their parents.")

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logical difficulties evident on closer examination.²¹ Good grades in school, excellent performance in sports and performing arts, and polite, compliant behavior in settings apart from the rejected parent comprise only some aspects of healthy psychological functioning. Children who suspend critical thinking and judge parents as either all good or all bad are prone to transfer such cognitive practices to peer relationships, resulting in the rupture of friendships at the first sign of conflict.

Alienated children's relationships with their favored parents may appear ideal because of the absence of conflict and frustration. In some cases, though, children pay for such harmony by neglecting their own needs.²² Often these children feel responsible for their favored parent's emotional well-being. They comfort distressed parents, serve as confidantes, and assure parents of their allegiance. Alienated children often sacrifice age-appropriate independent functioning in order to gratify favored parents' needs to keep the children close at hand and dependent. Mental health professionals describe such parents as infantilizing their children, and refer to the overly close parent-child relationships that emerge from such parenting as enmeshed.²³ The extent to which a parent infantilizes a child is less evident in the child's early years. As the child gets older, the failure to achieve normal degrees of separation and independence becomes more obvious, as in the case of a teenager who continues to sleep with a parent.

Another impairment that may be less evident is the alienated children's growing sense of entitlement to dictate the terms of their relationships with their parents. This may remain hidden unless and until adults attempt to assert their expectation that the children will have contact with rejected parents and work on healing ruptured relationships. Evaluators, therapists, child representatives, and judges are interested in children's thoughts and feelings regarding custody. But alienated children feel entitled to

²¹ Kelly & Johnston, *supra* note 2, at 263.

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²² RICHARD A. WARSHAK, THE CUSTODY REVOLUTION: THE FATHER FACTOR AND THE MOTHERHOOD MYSTIQUE 154 (1992); Benjamin D. Garber, *Parental Alienation and the Dynamics of the Enmeshed Parent-Child Dyad: Adultification, Parentification, and Infantilization*, 49 FAM. CT. REV. 322, 324 (2011).

²³ Steven Friedlander & Marjorie Gans Walters, *When a Child Rejects a Parent: Tailoring the Intervention to Fit the Problem*, 48 FAM. CT. REV. 98, 104-05 (2010).

have their demands met by those in authority. When the adults determine that what the children say they want is not in their best interests, the children complain that no one is listening to them. What children mean is that people will not do their bidding when it comes to disowning their rejected parents.

The underlying corruption of alienated children's character becomes evident in their defiance toward the judge and their failure to cooperate with court-ordered parenting time schedules. While models of comportment and compliance in school and in their community, many severely alienated children openly defy the court's authority and speak and act as if they were above the law and immune from external controls on their behavior. The children believe that they have their favored parents' approval to suspend the usual rules of morality when dealing with the targets of their enmity.

B. Current Impairments

Apart from what may be covert or subtle corruption of character and respect for authority, alienated children suffer overt irrational anxiety or hatred of a parent and declare their wish to completely erase good parents from their lives. Such irrational feelings represent significant psychological disturbances, regardless of how well these children function in other domains.²⁴ At the very least, unreasonably rejecting a parent is as serious a problem as are other irrational aversions and anxieties, such as avoidance of school, peers, or open spaces. Their obsessive hatred of rejected parents is at least as worrisome as fixed negative stereotypes and irrational prejudice toward members of religious or ethnic minorities.

Severely alienated children suffer significant impairments in their cognitive, emotional, and behavioral development.²⁵ They maintain a highly distorted view of a parent. They are unable to give and receive love from a good parent. They behave in an extremely negative, defiant, disobedient, aggressive, and hostile

²⁴ Richard A. Warshak, *Alienating Audiences from Innovation: The Perils of Polemics, Ideology, and Innuendo*, 48 FAM. CT. REV. 153, (2010).

²⁵ Janet R. Johnston, Marjorie G. Walters & Nancy W. Olesen, *The Psychological Functioning of Alienated Children in Custody Disputing Families: An Exploratory Study*, 23 AM. J. FORENSIC PSYCHOL. 39, 41-42 (2005); Kelly, *supra* note 8, at 87; Warshak, *supra* note 16, at 125.

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manner. If these children were living in an intact family, professionals would not doubt the wisdom of addressing rather than ignoring the problems. A family therapist, facing a parent-child conflict in a two-parent home, might advise a parent to temporarily withdraw to her room when conflict is escalating. The therapist, though, would never advise the rejected parent to move out of the home and grant the child's stated wish to have no contact with the parent.

It is not necessary to cite the long-term consequences of parental alienation to justify the importance of addressing the problem. The family's dysfunction in the present is sufficient justification for intervention.²⁶ In addition to alleviating the child's obvious impairments, interventions are needed to improve the functioning of both parents. Some mental health professionals and lawyers too readily counsel rejected parents to accept the situation and wait passively for the child's return. Those who make recommendations and decisions for these families should understand that the family is suffering and should be aware of the immense tragedy for a child to lose a parent and for a parent to lose a child.

It is easier to appreciate what is at stake when parental alienation is seen through the eyes of a parent who is the victim. One mother puts it this way:

It is like your child has died, but you can't go through the normal grieving process. Instead you are stuck in this Twilight Zone-like nightmare with no end in sight. You know your child is being abused, and this is child abuse pure and simple, but no one will help you save their hijacked souls and you are forced to stand and watch, with your hands tied behind your back.

She describes what mental health professionals term *ambiguous loss* or *complicated loss*, more difficult to resolve than grief over the death of a child because it defies closure.²⁷ She also identifies the pain of standing by helplessly while her child's character is corrupted.

²⁶ Christy M. Buchanan, Eleanor E. Maccoby & Sanford M. Dornbusch, *Caught Between Parents: Adolescents' Experience in Divorced Homes*, 62 CHILD DEV. 1008 (1991); Johnston et al., *supra* note 25; Lampel, *supra* note 11; Warshak, *supra* note 16, at 132.

²⁷ See generally, PAULINE BOSS, LOSS, TRAUMA, AND RESILIENCE: THERAPEUTIC WORK WITH AMBIGUOUS Loss (2006).

In addition to the emotional impact on families, parental alienation is implicated in violence, suicides, and homicides. An example is a father who alienated his children and then conspired with them to kill their mother. Explicitly recognizing the power of the father's influence, the district attorney charged the man with having "coerced, persuaded and enticed his children to commit this atrocious crime upon their mother."²⁸

C. Risks to Future Development

Research on the long-term outcome for families with alienated children is still in its early stages.²⁹ Non-random samples of convenience and the limitations of qualitative research and clinical observations limit the strength of the conclusions that can be generalized from available results. Researchers can extrapolate long-term outcomes, though, from several well-developed lines of investigation. These include: the impact of exposure to poorly-managed parental conflict, the consequences of intrusive parenting, and the risks to future development associated with parental absence and unresolved conflicts with parents.³⁰

²⁸ Jesse Fray, *Arthur Davis III Gets 25 Years for Baseball Attack on Ex-Wife*, LJWORLD.COM. (Jan. 25, 2010), <http://www2.ljworld.com/news/2010/jan/25/arthur-davis-iii-gets-25-years-baseball-attack-ex-/>. The father was found guilty of attempted first-degree murder, aggravated kidnapping and contributing to a child's misconduct.

²⁹ See generally BAKER, *supra* note 17; JUDITH S. WALLERSTEIN & SANDRA BLAKESLEE, *SECOND CHANCES: MEN, WOMEN, AND CHILDREN A DECADE AFTER DIVORCE* (1989); Robert M. Gordon, *The Medea Complex and the Parental Alienation Syndrome: When Mothers Damage Their Daughters' Ability to Love a Man*, in *THE MOTHER-DAUGHTER RELATIONSHIP: ECHOES THROUGH TIME* 207 (Gerd H. Fenchel ed., 1998); Aaron J. Hands & Richard A. Warshak, *Parental Alienation Among College Students*, 39 AM. J. FAM. THERAPY 431 (2011); Deirdre C. Rand & Randy Rand, *Factors Affecting Reconciliation Between the Child and the Target Parent*, in *THE INTERNATIONAL HANDBOOK OF PARENTAL ALIENATION SYNDROME: CONCEPTUAL, CLINICAL AND LEGAL CONSIDERATIONS* 163 (Richard A. Gardner, S. Richard Sauber & Demosthenes Lorandos eds., 2006).

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³⁰ See generally Kelly, *supra* note 8, at 82 (tying "the angry defiance, contempt for the rejected parent, enmeshed and overly dependent relationships with the favored parent in some cases, black/white thinking, and aggressive behaviors seen in these youngsters" to "bleak prospects for the children's own future psychological well-being including balanced and healthy intimate relationships.").

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One of the most robust findings in the child development literature on high-conflict homes and children whose parents are divorced is the negative link between child adjustment and exposure to poorly managed inter-parental conflict.³¹ Children whose parents ask them to carry hostile messages to the other parent, or whose parents denigrate each other, show more negative sequelae.³²

The literature on parenting most relevant to understanding the consequences of parental alienating behavior are studies on parental psychological control, also called intrusive parenting. This is defined as parenting behavior that “constrains, invalidates, and manipulates children’s psychological and emotional experience and expression.”³³ Examples of psychological control include: “If I have hurt her feelings, she stops talking to me until I please her again.” “Is less friendly to me if I don’t see things his way.” The concept of intrusive parenting was not created with alienated children in mind. But “manipulating children’s psychological and emotional experience and expression” is precisely how authorities on the psychology of alienated children describe the negative influence of the favored parent.³⁴ This type of ma-

³¹ See E. MARK CUMMINGS & PATRICK T. DAVIES, CHILDREN AND MARITAL CONFLICT: THE IMPACT OF FAMILY DISPUTE AND RESOLUTION (1994); Patrick Davies & Meredith J. Martin, *Children’s Coping and Adjustment in High-Conflict Homes: The Reformulation of Emotional Security Theory*, 8 CHILD DEV. PERSP. 242, (2014); E. Mavis Hetherington, Margaret Bridges, & Glendessa M. Insabella, *What Matters? What Does Not? Five Perspectives on the Association Between Marital Transitions and Children’s Adjustment*, 53 AM. PSYCHOL. 167 (1998); Joan B. Kelly, *Developing Beneficial Parenting Plan Models for Children Following Separation and Divorce*, 19 J. AM. ACAD. MATRIM. LAW. 237 (2005).

³² Buchanan et al., *supra* note 26; Susan Silverberg Koerner, Sara Wallace, Stephanie Jacobs Lehman, Sun-A Lee, & Kristine A. Escalante, *Sensitive Mother-to-Adolescent Disclosures After Divorce: Is the Experience of Sons Different from That of Daughters?*, 18 J. FAM PSYCHOL. 46 (2004), at 50 (reporting statistically significant links between a mother’s talking with her adolescent about her anger and complaints about the father and the adolescent’s psychological distress and disobedience of parents).

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³³ Brian K. Barber, *Parental Psychological Control: Revisiting a Neglected Construct*, 67 CHILD DEV. 3296, 3296, (1996). *Id.* at 3316 (providing examples of psychological control).

³⁴ CLAWAR & RIVLIN, *supra* note 2; Richard A. Warshak, *Family Bridges: Using Insights from Social Science to Reconnect Parents and Alienated Children*, 48 FAM. CT. REV. 48 (2010).

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nipulative parenting is linked to subsequent higher levels of depression and antisocial behavior.³⁵

Higher risk for depression is also one of the known long-term hazards of parental absence during childhood.³⁶ The risk is found regardless of the reason for parental absence. Some of the dynamics of this elevated risk may not apply to situations where parental absence is caused by the child's rejection, but most of the identified reasons for the negative impact of parental absence are relevant to the risks faced by an estranged child growing up apart from a parent and without that parent's psychological contributions to development. The greater the discrepancy between the amount of nurturing and involvement children received from each parent—and for severely alienated children it is the most extreme—the lower their subsequent self-esteem, life satisfaction, and quality and satisfaction with friendships, and the greater distress, romantic relationship problems, and troubled ruminations about parents these children experience when they are young adults.³⁷

In addition, children who hold a parent in contempt risk feeling contempt for the aspects of their own personalities that reflect identifications with the rejected parents. The resulting diminished self-esteem may contribute to depression. Children cannot escape the knowledge that each parent is part of them. It is difficult to harbor great contempt for a parent without, at some level, feeling terribly impaired. In subsequent years many of these children regret missing out on the relationship with the rejected parent. As they mature, many feel ashamed and guilty for having caused so much pain to a loving parent.

In addition to research on the effects of divorce, on child involvement in parental conflicts, and on parental absence, there are vast literatures on theories, research, and experience in the fields of child development and psychotherapy that demonstrate

³⁵ Brian K. Barber, Heidi E. Stoltz & Joseph A. Olsen, W. Andrew Collins, & Margaret Burchinal, *Parental Support, Psychological Control, and Behavioral Control: Assessing Relevance Across Time, Culture, and Method*, 70 MONOGRAPHS SOC'Y FOR RES. IN CHILD DEV. 1, 114 (2005).

³⁶ E.g., Paul Amato, *Parental Absence During Childhood and Depression in Later Life*, 32 SOC. Q. 543 (1991).

³⁷ Gordon E. Finley & Seth J. Schwartz, *The Divided World of the Child: Divorce and Long-Term Psychosocial Adjustment*, 48 FAM. CT. REV. 516, 522-24 (2010).

the handicapping effects of damaged and conflicted parent-child relationships on future psychological adjustment. The principle that family-of-origin relationships influence the trajectory of future relationships and life adjustment is not only the foundation of many different schools of psychotherapy and developmental psychology, it has reached the status of a truism in contemporary culture.³⁸ The loss is multiplied when the child is unable to receive and share love with an entire extended family.³⁹

IV. Prevention of Severe Alienation

Overcoming severe alienation usually involves extensive litigation, multiple failed attempts to modify the behaviors of the alienating parent and child, and sometimes an intensive intervention, all of which take a lot of money and time. The longer the process takes, the more the losses accumulate. The longer the absence of contact between parent and child, the more lost opportunities mount for the creation of family memories. School performances, music and dance recitals, scouting trips, science fair projects, sports events, proms, and graduation ceremonies all create memories marred in future years by the parent missing from the photographs.

A. Parent and Child Education Programs

The emotional and financial costs of severe alienation, and the obstacles to its alleviation, underscore the importance of directing resources and efforts to the goal of prevention and early identification of children at risk.⁴⁰ Parent education programs are

³⁸ E.g., MURRAY BOWEN, FAMILY THERAPY IN CLINICAL PRACTICE (1978); JAMES L. FRAMO, FAMILY-OF-ORIGIN THERAPY: AN INTERGENERATIONAL APPROACH (1992); Ronald M. Sabatelli & Suzanne Bartle-Haring, *Family-of-Origin Experiences and Adjustment in Married Couples*, 65 J. MARRIAGE & FAM. 159 (2003).

³⁹ See Mary J. Levitt, *Social Relations in Childhood and Adolescence*, 48 HUM. DEV. 28, 28 (2005) (indicating that a convergence of research demonstrates that “children benefit from the presence of multiple relations that play diverse roles in their lives . . .” and that “A broader conceptualization of social relations is needed to address the place of attachment figures within a larger network of developmentally significant relations.”).

⁴⁰ See Warshak, *supra* note 24, at 154; Richard A. Warshak, *Divorce Court: Mopping up the Mess*, HUFFINGTON POST, Aug. 16, 2011, http://www.huffingtonpost.com/richard-warshak/divorce-court-mopping-up-_b_924195.html.

one promising avenue toward this goal. Strong evidence exists that many parents going through a divorce can be taught to improve the quality of their parenting and co-parenting and that this leads to better outcomes for children.⁴¹ The effectiveness of court-connected education programs for divorcing parents has yet to be rigorously evaluated. With one significant exception, though, parents report being very satisfied with the program they attended. The exception is the complaint from parents throughout the country that the program failed to prevent a child from aligning with one parent against the other.

Reviews of face-to-face and online divorce education programs provide descriptions of their content and goals.⁴² An analysis of this content reveals a key omission that accounts for the dissatisfaction expressed by alienated parents. The programs teach about the impact of parental conflict on children and the importance of avoiding bad-mouthing and alienating behavior. They offer no guidance, though, on how to respond when the other parent engages in alienating behavior that places the children at risk for joining in a campaign of denigration and rejection. The programs exhort parents to refrain from behaviors that encourage alienation, but they make no suggestions to proactively protect children from succumbing to a parent's alienating behavior or to stem the tide of alienation before it becomes severe.

In short, parents receive no advice on how to respond effectively to the challenges posed by their children's rejection and provocative, contemptuous behavior. As a result, alienated parents typically make mistakes that compound the problem.⁴³ These mistakes make it more difficult for the custody evaluator

⁴¹ E.g., Amanda Sigal, Irwin Sandler, Sharlene Wolchik & Sanford Braver, *Do Parent Education Programs Promote Healthy Postdivorce Parenting? Critical Distinctions and a Review of the Evidence*, 49 FAM. CT. REV. 120 (2011); Melissa LaCraff, Heidi Stoltz & Denise Brandon, Longitudinal Program Evaluation of *Parenting Apart: Effective Co-Parenting*, 56 DIV. & REMARRIAGE 56, 117-136 (2015).

⁴² *Id.*; see also Jill R. Bowers, Elissa Thomann Mitchell, Jennifer L. Hardisty & Robert Hughes, Jr., *A Review of Online Divorce Education Programs*, 49 FAM. CT. REV. 776 (2011); Shelley Kierstead, *Parent Education Programs in Family Courts: Balancing Autonomy and State Intervention*, 49 FAM. CT. REV. 140 (2011).

⁴³ WARSHAK, *supra* note 17.

and court to understand the roots of the problem. When litigation raises issues of parental alienation, some courts require parents to read material on the topic and demonstrate compliance by writing a report on the material.

Parent education programs with modules on alienation are only one part of a comprehensive prevention formula. Programs for children who are at risk for becoming alienated may help them develop the skills and mindset to resist efforts by one parent to turn them against the other. Child education programs can include videos specifically designed to motivate children to avoid aligning with one parent against the other.⁴⁴ Although the effectiveness of such videos have not yet been systematically evaluated, a review in a professional journal,⁴⁵ anecdotal reports, viewers' comments posted on the Internet,⁴⁶ and reviews by children, parents, attorneys, mental health professionals, and judges are encouraging.⁴⁷ These sources attest to the potential of a single video program to produce an immediate positive impact on children, adolescents, and young adults who are or were subjected to a parent's alienating behavior.

B. *Psychotherapy*

Courts will often appoint a psychotherapist or counselor to work with families in which a child is exposed to alienating influences or is beginning to resist contact with a parent. In the early stages of alienation such treatment may help a child avoid aligning with one parent against the other. The therapist should have the option to meet with parents and children in various combinations as deemed helpful to the process. Interventions with alienating parents strive to reduce alienating behaviors by helping

⁴⁴ E.g., WELCOME BACK, PLUTO: UNDERSTANDING, PREVENTING, AND OVERCOMING PARENTAL ALIENATION (WBP Media 2010), available at <http://www.warshak.com/pluto/index.html>.

⁴⁵ David L. Levy & S. Richard Sauber, *Review of the DVD Welcome Back, Pluto: Understanding, Preventing, and Overcoming Parental Alienation*, 39 AM. J. FAM. THERAPY 77 (2011).

⁴⁶ Amazon.com, *Customer Reviews: Welcome Back, Pluto: Understanding, Preventing and Overcoming Parental Alienation*, http://www.amazon.com/Welcome-Back-Pluto-Understanding-Preventing/product-reviews/B0042QDAQ4/ref=dp_top_cm_cr_acr_txt?ie=UTF8&showViewpoints=1

⁴⁷ Richard Warshak, What Viewers Say About "Pluto," <http://www.warshak.com/pluto/viewers-say.html> (last visited Apr. 22, 2014).

parents appreciate the importance of shielding their children from such messages, understand the harmful impact of bad-mouthing the other parent to the children, and find healthier ways, without using the children, to express their negative feelings about their former partner. Work with parents who are the target of bad-mouthing helps them respond in a sensitive and effective manner to their children's behavior and avoid errors that, while common among rejected parents, may exacerbate parent-child conflicts. Work with children affirms their right to give and receive love from both parents and helps them avoid getting involved in their parents' disputes. The literature presents several models and strategies for working with families in which school-age children are alienated, but lacks rigorous outcome data.⁴⁸

The need for intervention may sometimes be less apparent in families with young children who live with a parent who teaches them to fear or hate the other parent. Toddlers and preschoolers may fulfill a parent's expectations by acting fearful and resistant during scheduled transfers to the other parent's care. If the child's overt, albeit temporary, feelings are indulged, and the child's protests allowed to abort the planned exchange, the protests are likely to emerge and become more intense at each subsequent attempt to implement the parenting time plan. If instead the child is given the opportunity to spend time with the denigrated parent outside the orbit of the alienating parent, the fearful and angry behavior quickly evaporates.⁴⁹ When meeting with a custody evaluator, young children may try to repeat a script written by the alienating parent. But they forget what they

⁴⁸ See STEPHEN CARTER, FAMILY RESTRUCTURING THERAPY: INTERVENTIONS WITH HIGH CONFLICT SEPARATIONS AND DIVORCES (2011); BILL EDDY, NEW WAYS FOR FAMILIES: PROFESSIONAL GUIDEBOOK FOR JUDICIAL OFFICERS, LAWYERS AND THERAPISTS (2010); Rhonda Freeman, David Abel, Mary Cowper-Smith, & Laurie Stein, *Reconnecting Children with Absent Parents: A Model for Intervention*, 42 FAM. CT. REV. 439 (2004); Friedlander & Walters, *supra* note 23, at 106; Johnston & Goldman, *supra* note 20; Matthew J. Sullivan, Peggie A. Ward & Robin M. Deutsch, *Overcoming Barriers Family Camp: A Program for High-Conflict Divorced Families Where a Child Is Resisting Contact with a Parent*, 48 FAM. CT. REV. 116 (2010).

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⁴⁹ See Kelly & Johnston, *supra* note 2, at 260; Warshak, *supra* note 17, at 211; Kirk Weir, *High-Conflict Contact Disputes: Evidence of the Extreme Unreliability of Some Children's Ascertainable Wishes and Feelings*, 49 FAM. CT. REV. 788, 795 (2011).

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are supposed to say and cannot answer questions for which they were not rehearsed.⁵⁰

Because the young child loses the negative reaction to the denigrated parent during contacts with the parent, and does not show stable and chronic alienation, a common mistake is to overlook the need for intervention. Therapists have noted children's confusion and anger resulting from exposure to alienating processes regardless of the very young child's apparent resilience.⁵¹ Without help to change, the family environment places these children at risk to develop the characteristics and consequences of irrational alienation and parental absence discussed above.

In a comprehensive overview of the literature, Barbara Jo Fidler and Nicholas Bala conclude that "counseling or psychotherapy tend to be suitable for mild and some moderate cases."⁵² Psychotherapy is unlikely to prevent the entrenchment of alienation in cases that involve a favored parent who is determined to erase the other parent from the child's life, and who suffers a personality disorder or otherwise has little chance of gaining insight about the children's need to maintain a good relationship with the other parent. Favored parents will commonly either demean the entire enterprise of mental health treatment, or undermine the treatment at the first sign that the therapist believes the alienation is unreasonable and that the child should be required to spend time with the rejected parent. The money, time, and emotional investment in unsuccessful treatment, and the subsequent costs of returning to court to seek an effective remedy, drains the family's resources, prolongs their suffering, and may unnecessarily delay the onset of interventions that promise a greater chance of success. If too much time elapses from the start of a failed course of treatment to the time the court reconsiders the case, it may be too late to help children, particularly if they are close to being eighteen years old and their contacts with parents are no longer governed by court orders for parenting time.

⁵⁰ E.g., Pamela S. Ludolph & James N. Bow, *Complex Alienation Dynamics and Very Young Children*, 9 J. CHILD CUSTODY 153, 172 (2012).

⁵¹ *Id.*

⁵² Barbara Jo Fidler & Nicholas Bala, *Children Resisting Postseparation Contact with a Parent: Concepts, Controversies, and Conundrums*, 48 FAM. CT. REV. 10, 24 (2010).

Counseling is not only ineffective in many cases of moderate and severe alienation. Often it makes things worse. Counselors who lack adequate understanding and competence in dealing with parental alienation may be too quick to accept at face value the favored parent and child's representations of events.⁵³ This can result in misdiagnosis and misguided treatment.

In one case, representative of many I have seen, the counselor's unfamiliarity with the professional literature on parental alienation was revealed during cross-examination. Despite the court-appointed evaluator's conclusions and the court's findings that the adolescent was unreasonably alienated from his mother, this counselor treated the boy's avoidance of his mother as a sign of post-traumatic stress disorder. The alleged traumatic event: when the boy suddenly refused to return to his mother's home after spending a week with his father, his bewildered mother and grandmother went to the boy's school and met with him in the principal's office. At the time the boy offered no protest, but robotically repeated that he needed to speak with his father. Subsequently the boy and his father distorted the event beyond recognition. The therapist uncritically adopted their view that the women's gentle attempt to speak with the boy in the principal's office at school was actually a traumatic abduction. In so doing, the therapist made no attempt to verify the alleged trauma with the principal or others at the school who allegedly sat by idly while the two women, in full sight and hearing of school staff, allegedly physically restrained and traumatized a teen who was physically larger than his mother and his elderly, frail grandmother.

Therapists who overly identify with their alienated patients' perspectives and assume that children's accounts of interactions are accurate contribute to the entrenchment of gross distortions of memory and perception. They miss opportunities to help their patients get a better hold on reality. Recall the boy who attributed his smile in a photograph with his mother to being pinched. In testimony that captures the extent to which other adults en-

⁵³ See Lyn R. Greenberg, Jonathan W. Gould, Dianna J. Gould-Saltman & Philip M. Stahl, *Is the Child's Therapist Part of the Problem? What Judges, Attorneys, and Mental Health Professionals Need to Know About Court-Related Treatment for Children*, 37 FAM. L.Q. 39, 45 (2003); Ludolph & Bow, *supra* note 50.

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able and encourage the alienated child's distortions of reality, on the stand the father and the boy's therapist maintained that if the boy said his smile was the result of being pinched when the photograph was taken, it is possible that he was being pinched. When the attorney directed their attention to the mother's two hands in the photograph, the father and the therapist, rather than acknowledge the obvious, testified that it is possible that a split second before the shutter snapped the mother pinched her son and then instantly placed her hand on his shoulder.

When the attorney asked me if it was possible that the boy was being pinched when the photo was snapped, I testified that one would have to assume that the mother has three hands or that a very tiny person, concealed behind the family, was pinching the boy. Even then, we would expect a grimace in response to a pinch, not the broad smile evident in the photo. I thought that the idea that he was being pinched was ridiculous, and that the court should be concerned that the therapist and the father not only believed that the story was plausible but expected the judge to believe the same.

Admittedly therapists working with irrationally alienated children walk a thin line. If their patients perceive them as unsympathetic to their complaints about the rejected parents, the patients may become alienated from the therapist and fail to benefit from therapeutic interventions. Yet if they agree with alienated children that their rejection of parents is justified, they lose the opportunity to promote healing in the relationship. They may also lose credibility with their patients who, at some level, appreciate that the alienation is unreasonable and not in their best interests.

It is beyond this paper's scope to present specific principles and strategies of effective interventions. Some of these can be found in my earlier work.⁵⁴ In general, interventions that are most effective with severely alienated children bypass challenges to the children's negative perceptions, memories, and complaints about the rejected parents. Instead the professional teaches children about the human propensity to develop false negative views and memories of others and about the importance and methods

⁵⁴ Warshak, *supra* note 34, at 58-66.

of applying critical thinking to understanding relationship conflicts.

C. Detailed and Unambiguous Court Orders

Parenting coordinators and therapists who work with high conflict cases emphasize the importance of the court issuing detailed and clear orders. A parent who is intent on obstructing the child's contact with the other parent will exploit every loophole and ambiguity in the orders to accomplish this goal. For instance, the parent may claim that the child is coming down with a cold and can't make the shift between homes. Or the parent will sabotage court-ordered treatment because the orders failed to specify which parent is responsible for getting the child to the therapist. Attorneys who represent rejected parents should anticipate every conceivable excuse to keep children from their clients and then ensure that the orders protect against these contingencies. If this is done at the stage of the initial temporary orders, it could help prevent alienation from taking root and becoming more severe.

Attempts to corrupt a child's view of a parent most effectively crowd out the child's positive feelings and memories when the child has no reminders of the parent's love and no time to enjoy that parent.⁵⁵ The child becomes more dependent on the favored parent and more likely to see the absent parent through the distorting lens of the parent doing the bad-mouthing.

When their parents separate, children have no norms about what to expect. If they have regular contact with both parents from the outset, this becomes the status quo and the norm. If they lose contact with a parent, they come to regard this as normal. The longer children are apart from a parent, the stronger the negative attitudes, the more resistant to change, and the more difficult it is to reunite children with their rejected parent. The longer the children's will dominates the behavior of adults, the more difficult it will be for the children to appreciate and accept that decisions about contact are not theirs to make.

One provision of many court orders, designed to safeguard children's welfare, may have undesirable consequences. Parents are admonished to not speak negatively about each other to the

⁵⁵ See GARDNER, *supra* note 2; WARSHAK, *supra* note 17.

children, not involve the children in parental conflicts, and not discuss the litigation with the children. The problem is that alienating parents, either intentionally or inadvertently, regularly violate this provision. This places parents who are targets of bad-mouthing and smear campaigns in a bind. If they do not speak to their children and correct misinformation that persuades the children to see them in a bad light, they give their children no help to cope with the bad-mouthing, and may stand idly by as their relationship with their children gradually deteriorates.⁵⁶ But if they do speak to their children, they risk being seen as criticizing the other parent, involving their children in the parents' conflicts, or inappropriately exposing the children to litigation matters.

Lawyers and judges should recognize some limitations of court orders that attempt to regulate parent-child communications about the divorce. For example, parents should shield children from most adult-adult issues and not undermine the other parent's relationship with the child—that is the true intent of such court orders. But a parent who is the target of bad-mouthing may need to defend his or her parent-child relationship by sensitively providing information to counter accusations the child hears from the other parent.

D. Rapid and Effective Enforcement of Court Orders

Even the most unambiguous and detailed orders will not help if they are not enforced. A parent who obstructs the children's contact with the other parent may benefit from the status quo. In *In re Miller and Todd*, a New Hampshire court awarded custody to a mother who successfully interfered with the father-child relationship.⁵⁷ The court found that the mother alienated the children from their father, but reasoned that the children had spent the majority of their lives with her and that is where they felt most comfortable. This is typical for such cases. The absence of contact establishes a status quo that the court honors in order to spare the children drastic changes.

The New Hampshire Supreme Court vacated the award.⁵⁸ It recognized that the father was denied contact with his children

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⁵⁶ See WARSHAK, *supra* note 17.

⁵⁷ *In re Miller & Todd*, N.H. S. Ct., Portsmouth Fam. Div. No. 2009-806.

Argued Nov. 17, 2010; opinion issued Mar. 31, 2011.

⁵⁸ *In re Miller & Todd*, 20 A.3d 854 (N.H. 2011).

for more than two years, and that awarding custody to the mother because of the lack of father-child contacts rewards the mother for violating court orders. The decision quoted the Vermont Supreme Court:

Although obviously well intended, the court's decision effectively condoned a parent's willful alienation of a child from the other parent. Its ruling sends the unacceptable message that others might, with impunity, engage in similar misconduct. Left undisturbed, the court's decision would nullify the principle that the best interests of the child are furthered through a healthy and loving relationship with both parents.⁵⁹

This reasoning gives voice to the most frequent complaint parents make regarding their custody litigation: Repeated violations of orders go unpunished, with some parents making a mockery of the court's authority. Experts agree. Dr. Joan Kelly notes, "[A] significant number of these parents have come to believe . . . that noncompliance with court orders, whether for facilitating contact between the child and rejected parent or attending divorce education classes or therapy, brings no negative consequences."⁶⁰

In some cases a child runs away from the rejected parent's home into the welcoming arms of a parent intent on driving a wedge between the child and the other parent. Law enforcement authorities can be effective in such situations by retrieving the children, giving them stern lectures, and returning them to the parent from whom they ran away. The police are more likely to do so if the court orders anticipate such an event and direct law enforcement personnel to enforce the parenting plan. Unfortunately often the police dismiss such incidents as family matters that need to be settled in court and not by police intervention. A parent is less likely to harbor a runaway child if he or she expects swift sanction from the court for violating orders. Instead what often occurs is that the children remain out of touch with their rejected parent as the litigation slogs through a quicksand of legal maneuvering and failed psychotherapeutic attempts to remedy the problem.

When asked about the years apart from his mother in the aftermath of his running away, one teen said that when he ran

⁵⁹ *Id* at 643.

⁶⁰ Kelly, *supra* note 8, at 85.

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away from his mother he never expected to remain with his father. He knew that “the rules” called for him living part-time with each parent. In the past, when he got mad at a parent, he would go to his room until he calmed down. He assumed that he would return later the same day to his mother. He didn’t know that things would work differently after divorce. Like many children in his situation, he said that he never really stopped loving his mom and was surprised that the adults, and the court for a long time, allowed him to stay apart from her and essentially take family law into his own hands.

Scholars who study compliance with court orders have found that the threat of a mild punishment imposed reliably and immediately is more effective than the threat of a severe punishment that is delayed and uncertain.⁶¹ People are more sensitive to the immediate future and focus more on how likely an outcome is than how bad it is. Thus litigants who may breach court orders need to have a firm sense of what to expect from the court, and the certainty that the court will follow through on its threats. Swift, certain, uniform, and moderate consequences are most likely to be effective. A legal scholar who studies parental alienation cases, although regarding contempt as a blunt instrument, found that in Canada the threat of a sentence can be effective in eliciting compliance with family court orders.⁶²

The lessons for attorneys who represent clients at risk for becoming alienated from their children are: 1) encourage your client’s regular contact with the children, 2) secure orders that have teeth in them for noncompliance, and 3) move quickly for sanctions when the orders are violated.

V. Disposition of Severe Alienation Cases

When prevention efforts fail or are unavailable, and severe alienation cases reach the courtroom, their disposition falls into

⁶¹ DAVID M. KENNEDY, DETERRENCE AND CRIME PREVENTION: RECONSIDERING THE PROSPECT OF SANCTION (2009); Mark Kleiman, Beau Kilmer & Thomas C. Schelling, *The Dynamics of Deterrence*, 106 PROC. NAT'L ACAD. SCI. 14230 (2009).

⁶² Nicholas Bala, Parental Alienation, Contact Problems, and the Family Justice System. Presentation at Australian Institute of Family Studies, Melbourne, Australia (Feb. 2012).

four general categories.⁶³ These four options include variations on two dimensions: first, the custody and access schedule, and second, the degree to which the court relies on interventions to build healthier family relationships. The four options for primary custodial placement of alienated children are with:

1. the favored parent accompanied by court-ordered efforts to remedy the problems,
2. the rejected parent, in some cases temporarily suspending contact with the favored parent,
3. neither parent, and
4. the favored parent with no scheduled contacts with the rejected parent.

A. Custody with the Favored Parent Along with Efforts to Remedy Alienation

The first option places the child with the favored parent and relies on parent education, counseling, and parenting coordination to promote healing in the family. Variations of this option either accept the child's refusal of contact pending the outcome of counseling, increase the child's scheduled time with the rejected parent sometimes by as much as half time, or gradually increase the amount of time the child spends under the care of the rejected parent. In some cases, initial contacts take place with oversight by the counselor or other party.

Many children who participate in court-ordered therapy do so with overt resistance and reluctance. Parents who support or accept their children's rejection of the other parent often lack motivation to participate in therapy aimed at healing the damaged parent-child relationship. Thus, an element of coercion accompanies court-mandated therapy with sanctions for noncompliance.⁶⁴ Children who want no contact with a parent are essentially forced against their will to have such contact in and sometimes out of therapy sessions. Therapists who expect voluntary participation by favored parents and severely alienated children who live with the favored parent soon learn that such cooperation is unlikely without a court order.⁶⁵

⁶³ See Warshak, *supra* note 34.

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⁶⁴ See *id.* at 50.

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⁶⁵ Sullivan et al., *supra* note 48, at 131.

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Restricting communication between the children and the favored parent while they are spending time with the other parent can enhance the effectiveness of plans for children who live primarily with their favored parent. Favored parents often use communications to intrude on the children's time with the rejected parent and to reinforce their alienation. In phone calls and texts favored parents suggest to the children that they are not having a good time with the rejected parent, instruct them to ask or demand to be returned before the scheduled end of the contact, and encourage them to withdraw from the rejected parent. Rejected parents commonly complain that as soon as the children arrive they receive text messages asking them if they are ready to return home.

Attempts to remedy alienation while the child lives with the favored parent are most likely to succeed when alienation is in its earlier stages, when counseling has not yet been attempted, when the favored parent is apt to comply with court orders, and when the favored parent is able and willing to get the children to comply with treatment and with a schedule of contact with the rejected parent. The latter condition can be difficult to assess accurately in cases that return to court after a failed course of psychotherapy. In some cases clear evidence exists of the favored parent's failure to support and encourage the children's relationship with their other parent. For instance, the children receive no negative consequences following their refusals to comply with scheduled contacts with their other parent and instead spend the time in rewarding activities. The favored parent and child may be more motivated to comply with court orders if the court makes it clear that failure to comply, or unsuccessful repair of the damaged relationship, will most likely lead to an increase in the parenting time awarded to the rejected parent, and perhaps supervised, monitored, or suspended contact between the child and the favored parent.

1. Collusion to Discourage Interventions and Placement with the Rejected Parent

When the favored parent worries that an evaluator, guardian ad litem, or the court are likely to hold the favored parent in large measure responsible for the children's alienation, and may place the children primarily with the rejected parent, often the

favored parent encourages the children to pretend that they have overcome their alienation. Cooperative and superficial polite behavior replaces the former avoidance and disrespect. After months and sometimes years of no contact and scornful rejection, the children begin to comply willingly with orders for contact. In an attempt to obscure the fact that the children had ever been alienated, the favored parent and children rewrite history. In one case, after the court heard evidence about a child's animosity toward his mother's extended family, one boy falsely claimed that he had been having weekly phone contact with his maternal uncle.

Through texts and emails requesting to meet, greeting cards signed with love, and surreptitious voice recordings, the children fulfill their assignment to create a record that the favored parent subsequently uses to argue in favor of maintaining the status quo. Toward the end of a trial, a teen contacted her mother after months of avoidance to ask to meet for dinner. The mother was aware that the offer was a ruse. If she refused the invitation the father would claim that the mother was not doing her part toward reconciliation. If she accepted the invitation, the judge would hear that the mother-daughter relationship was on the mend and no additional intervention or custody modification was needed. After hearing the details of the children's communications during the contact, I advised the mother to be aware that her daughter likely was recording the entire interaction. The mother replied, "Come to think of it, she left her cell phone in the center of the dining room table during the entire meal."

Evaluators and the court may be taken in by this ploy. As soon as the current round of litigation ends, the children revert to their former disrespectful, resentful, and avoidant behavior. By the time this becomes evident, and the rejected parent can get the case back before the judge, it may be too late. The child may reach her eighteenth birthday and no longer is subject to family court decisions, or she may reach mid-adolescence at which time some courts reduce expectations for compliance with a court-ordered residential schedule.

In other instances, the rapid shift in behavior on the eve of litigation accomplishes the opposite result. It exposes the power that the favored parent has wielded all along to remedy the problem and underscores that parent's role in fomenting, strengthen-

ing, and supporting the children's suffering. At the same time, it reveals a previously unseen malleability in the behavior of the favored parent and children when sufficiently motivated by the court's authority.

The sham, intended to convince the court to take a hands-off approach, instead helps the evaluator and the court appreciate that the successful resolution of alienation requires the court's firm expectations, oversight, and enforcement. When the children believe that, as far as the court is concerned, failure is not an option, they are more likely to engage meaningfully in efforts to repair the damaged relationship. The fear of getting the favored parent in trouble with the court provides children with a face-saving excuse to "follow the rules" and return to a normal relationship with the other parent. The children then feel relieved to shed the burden of having to disrespect one parent for fear of disappointing the other.

2. Potential Drawbacks of Leaving Children with Their Favored Parent

Leaving the children with their favored parent may be less stressful for some children in the short run, and may be a default option if the court determines that the rejected parent lacks the capacity to assume full-time care of the children. In terms of alleviating alienation, though, this option has significant drawbacks. It is not recommended when the favored parent has a history of sabotaging treatment (e.g., repeatedly failing to bring children to appointments, or repeatedly terminating treatment until locating a therapist who supports the favored parent's position in the litigation). It is also not recommended when there is a high risk of child abduction, or the favored parent exposes the children to an emotionally toxic environment, such as intimidating the children into rejecting the other parent. The literature on domestic violence describes the manner in which efforts to turn children against a parent sometimes represent a continuation and extension of behaviors by the other parent intended to harass, control, and punish a former spouse or partner.⁶⁶

⁶⁶ E.g., Marisa L. Beeble, Deborah Bybee, & Cris M. Sullivan, *Abusive Men's Use of Children to Control Their Partners and Ex-Partners*, 12 EUR. PSYCHOLOGIST 54 (2007); Leslie M. Drozd & Nancy W. Olesen, *Is It Abuse, Alienation, and/or Estrangement? A Decision Tree*, 1(3) J. CHILD CUSTODY 65 (2004);

According to a consensus of studies, treatment of severely alienated children while they remain apart from the rejected parent and with the favored parent is more likely to fail than to succeed and it may make matters worse by further entrenching the child's distorted perceptions of the rejected parent.⁶⁷ This is true for all models of treatment of irrationally alienated children proposed in the literature. Extending unsuccessful treatment while the child remains with the favored parent carries the hazards of delaying, and in some cases preventing, the eventual delivery of effective help.

Custody evaluators and guardians ad litem often prefer this option because they believe it is less intrusive and requires less of an adjustment on the children's part than removing the children from the primary care of the favored parent. Typically, court orders for treatment under this option are open-ended with vague and non-specific treatment goals (e.g., to reunify the parent and child, or to improve the parent-child relationship). If treatment fails (which is more likely than not with severely alienated children who have no contact with the rejected parent outside of therapy sessions), the rejected parent wants to return to court as

Peter G. Jaffe, Janet R. Johnston, Claire V. Crooks, & Nicholas Bala, *Custody Disputes Involving Allegations of Domestic Violence: Toward a Differentiated Approach to Parenting Plans*, 46 FAM. CT. REV. 500, 504 (2008).

⁶⁷ See Fidler & Bala, *supra* note 52, at 33 ("Moreover, therapy may even make matters worse to the extent that the alienated child and favored parent choose to dig in their heels and prove their point, thereby further entrenching their distorted views."). See also John Dunne & Marsha Hedrick, *The Parental Alienation Syndrome: An Analysis of Sixteen Selected Cases*, 21 J. DIV. & REMARRIAGE 21 (1994); Richard A. Gardner, *Should Courts Order PAS Children to Visit/Reside with the Alienated Parent? A Follow-up Study*, 19 AM. J. FORENSIC PSYCHOL. 61 (2001); Anita K. Lampel, *Post-Divorce Therapy with Highly Conflicted Families*, 6 INDEP. PRACTITIONER 1 (1986); Ludwig F. Lowenstein, *The Psychological Effects and Treatment of the Parental Alienation Syndrome*, in THE INTERNATIONAL HANDBOOK OF PARENTAL ALIENATION SYNDROME: CONCEPTUAL, CLINICAL AND LEGAL CONSIDERATIONS, *supra* note 11, at 292; Deirdre Conway Rand, *The Spectrum of Parental Alienation Syndrome (Part I)*, 15 AM. J. FORENSIC PSYCHOL. 23 (1997); Deirdre Rand, Randy Rand, & Leona Kopetski, *The Spectrum of Parental Alienation Syndrome Part III: The Kopetski Follow-up Study*, 23 AM. J. FORENSIC PSYCHOL. 15, 39 (2005); Richard A. Warshak, *Bringing Sense to Parental Alienation: A Look at the Disputes and the Evidence*, 37 FAM. L.Q. 273 (2003); Kirk Weir & Claire Sturge, *Clinical Advice to Courts on Children's Contact with their Parents Following Parental Separation*, 11 CHILD & ADOLESCENT MENTAL HEALTH 40 (2006).

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soon as possible (assuming finances allow), while the favored parent delays the process as long as possible. When the case is back before the court, the judge is likely to order an updated evaluation by the original evaluator. The timing of the re-evaluation is subject to the evaluator's schedule and is usually prolonged by the favored parent's obstructive and delay tactics.

The longer the delay, the older the children, the more accustomed they become to living estranged from a parent, and the less likely the court will be to overturn the status quo. For these reasons, recommendations and court orders for treatment while the children remain primarily with their favored parent should have the following three provisions:

1. a time frame, such as three to four months, after which the impact of treatment will be assessed;
2. explicit criteria for evaluating progress and success of treatment;
3. contingency plans in the event that the treatment is ineffective.

In evaluating the impact of interventions accompanying any of the four options, it is essential to determine whether results go beyond superficial or short-lived responses.⁶⁸ Intervention outcome studies should distinguish between children's cooperation and enjoyment of a program in its early stages, their understanding of concepts that may facilitate reconciliation, their successful modification of thoughts, emotions, and behaviors associated with the repair of damaged relationships upon completion of a program, and their maintenance of the gains over the long-term. Some therapists consider treatment to be progressing adequately if they succeed in having alienated children in the same room as rejected parents, even if the children verbally abuse parents during sessions and show no signs of alleviation of negative and distorted attitudes. Some intervention programs measure success by the participants' reports of satisfaction, regardless of whether attitudes and behavior change. In such cases, favored parents and children report satisfaction when the treatment structure supports the status quo of the children remaining alienated. More meaningful criteria of treatment effectiveness include explicit ev-

⁶⁸ Freeman et al., *supra* note 48, at 441; Kelly, *supra* note 8, at 86-87; Warshak, *supra* note 34; Warshak, *supra* note 16, at 143.

idence of genuine and stable change in children's thoughts, feelings, and behavior toward the rejected parent.⁶⁹ In some cases the children have contact with their rejected parents only during therapy sessions or during the intervention program and the children regress to an alienated stance upon returning home. In other cases the intervention concludes before bringing the children closer to a positive relationship with the rejected parent. Such programs may not hold much hope for these injured families unless the contacts during the intervention facilitate subsequent successful therapeutic efforts.

When the court orders counseling for alienated children while they live with their favored parent, the participants should be put on notice of what is likely to happen if the counseling fails. If the judge mentions the likelihood that a failed course of counseling may result in an increase in the children's time with the rejected parent or in a reversal of custody, this may help motivate the favored parent and children to engage meaningfully in treatment and modify their behavior.

B. *Custody with the Rejected Parent*

The second option places the child with the rejected parent either with temporary or permanent orders. This option may keep contact between the child and the favored parent, or may temporarily suspend contact until certain conditions are met. In some cases children spend the entire summer with the rejected parent. This gives uninterrupted time to repair the relationship, but is less of an adjustment for the children, some of whom are used to spending summers on a teen tour or in sleep-away camp apart from both parents. The court may or may not order interventions for the family when children are placed with the rejected parent.

In *In Re Miller and Todd*, the New Hampshire Supreme Court cited favorably an opinion from a Vermont case: "Across the country, the great weight of authority holds that conduct by one parent that tends to alienate the child's affections from the other is so inimical to the child's welfare as to be grounds for a denial of custody to, or a change of custody from, the parent

⁶⁹ Kelly, *supra* note 8, at 87.

guilty of such conduct.”⁷⁰ An analysis of 175 Canadian cases found this option to be the most common response when the court determined that alienation had occurred.⁷¹ Canadian appellate decisions have generally affirmed transfer of custody to the alienated parent.⁷² In Australia, the court granted custody to the rejected parent in 53% of cases in which alienation was substantiated.⁷³

Research on this option shows this to be effective in overcoming severe alienation.⁷⁴ A study of 1,000 cases, published by the American Bar Association, reports positive change in 90% of the relationships between children and their rejected parents when contact between them was increased.⁷⁵ A meta-analysis of 515 studies confirms the core assumption of intergroup contact theory that, under the right conditions, contact between opposing groups lessens hostility and prejudice.⁷⁶ These findings help to explain the benefits of placing children with their rejected parents when the children harbor unwarranted hostility fueled by negative stereotypes.

1. Temporary Suspension of Children’s Contact with Their Favored Parent

Placing children with their rejected parent may be a more effective remedy for severe alienation if, immediately after placement, the family secures professional help to adjust to the transition put in place by court orders. In some cases, to assist with the process the court temporarily suspends the children’s contact with the favored parent.⁷⁷ A no-contact order between children

⁷⁰ Renaud v. Renaud, 721 A.2d 463, 465-66 (Vt. 1988), as cited in *Miller & Todd*, 20 A.3d 854).

⁷¹ Bala et al., *supra* note 10, at 172.

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⁷² *Id.*

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⁷³ Bala, *supra* note 62.

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⁷⁴ Warshak, *supra* note 67.

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⁷⁵ CLAWAR & RIVLIN, *supra* note 2.

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⁷⁶ E.g., Rupert Brown & Miles Hewstone, *An Integrative Theory of Intergroup Contact*, in ADVANCES IN EXPERIMENTAL SOCIAL PSYCHOLOGY, VOL. 37 255 (Mark P. Zanna ed., 2005); Thomas F. Pettigrew & Linda R. Tropp, *A Meta-analytic Test of Intergroup Contact Theory*, 90 J. PERSONALITY & SOC. PSYCHOL. 751 (2006).

⁷⁷ See Warshak, *supra* note 34, at 51.

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and their favored parent can serve several aims consistent with children's best interests.

1. It is easier for children to focus on rebuilding a stable, positive relationship with their rejected parent and invest more fully in the process if this is the only parent with whom they are relating during the initial months of reunification. Just as teens can learn a foreign language easier when they are immersed in the foreign country and speak only that country's language, so they find it easier to reconnect with a parent when parent-child interactions are restricted to one parent on whom the children must rely to meet their needs. In a sense the children become immersed in a culture that supports their healthy reintegration with their rejected parent. Many residential programs designed to help children overcome destructive behavior, such as rehabilitation programs for substance abusers, restrict contact with both parents in order to encourage the child's investment in the program.
2. If the court determines that the favored parent's behavior constitutes psychological abuse of the children or creates an extremely unhealthy environment, a no-contact order protects children from further mistreatment.
3. Even when the favored parent's behavior falls short of mistreatment from which the children require protection, the favored parent's environment presents constant cues, communications, attitudes, and influence that undermine the children's relationship with their other parent. The children hold a fixed negative stereotype of the rejected parent that they regard as conforming to the views of their favored parent and that parent's friends and relatives. Just as children are less likely to overcome a negative stereotype of ethnic minorities while living in a home that constantly exposes them to pernicious attitudes about people of the denigrated race or religion and feeds information that presents the race or religion in an exclusively negative light, so they are unlikely to overcome a rigid prejudice against the rejected parent without some interruption and insulation from the negative influences.

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4. If the court conveys that the duration of the no-contact order is in part tied to the quality and rate of progress in repairing the damaged relationship with the rejected parent, this gives the children incentive to invest in the process of healing. The children understand that the sooner their relationship with the rejected parent is on the mend, the sooner they return to a more normal schedule of contact with both parents.
5. When renewed contact with the favored parent is contingent upon re-establishing a good relationship with the other parent, the court lifts the burden on the children of having to demonstrate loyalty to the favored parent by rejecting the other. Instead the court orders set up a contingency so that the children can fulfill the favored parent's desire for renewed contact with them by overcoming their alienation rather than remaining mired in it. This gives children a face-saving way to renew a positive relationship with the rejected parent without appearing disloyal to their other parent.
6. Suspension of contact between the children and their favored parent emphasizes the court's view of the gravity of the problem and the court's strong conviction that the children's best interests are served by repairing the damaged relationship with their rejected parent. The message the children receive is that after reviewing all the evidence the court believes that the children's rejection of their parent is unjustified, the problem is serious, and their behavior needs to change.
7. The no-contact order underscores the court's authority and commitment to go to great lengths to create an environment that accomplishes the goal of relationship repair. This is especially important in the many cases where the court's decision follows a prolonged period of time in which court orders were violated with impunity and the favored parent and children came to believe that they were beyond the reach of the court with respect to the division of parenting time.⁷⁸ The no-contact order proclaims a clear break from the status quo.

⁷⁸ See Kelly, *supra* note 8.

8. Suspension of contact usually occurs in the context of multiple failed attempts to remedy the alienation. The children have come to expect that they can defeat efforts to alleviate the problem and that the benefits of resisting the process outweigh the costs to them. In such cases, a striking event delivered by the court can help the parties move beyond their impasse. The no-contact order dramatically alters the perspective of the favored parent and the children that their resistance will succeed in defeating the court's intentions.⁷⁹
9. The parent with whom the children are aligned has carried on a lengthy campaign to support the status quo of no contact between the children and their other parent. It is unlikely that the aligned parent will be inclined to relinquish the campaign in the immediate aftermath of the court's decision. Instead parents whose position was not supported by the court tend to focus on the presumed flaws of the rejected parent, of the witnesses who supported the rejected parent, and of the court and its representatives (e.g., court-appointed evaluator or guardian ad litem). The period of no contact insulates the children at a time when their aligned parent's hostility peaks. At the same time, it gives that parent time and motivation to shift from the focus on the alleged flaws of others to understanding his or her own contributions to the problems and learning ways in which to support the children's need for both parents.
10. An order that provides for an extended period of contact exclusively with the alienated parent is sometimes seen as providing make-up time for what often has been

⁷⁹ See DEAN G. PRUITT & SUNG HEE KIM, SOCIAL CONFLICT: ESCALATION, STALEMATE, AND SETTLEMENT 175 (2004). (discussing stalemates between parties in conflict: "They may be cognitively entrapped in the conflict—too close to the details to see the unpromising broader picture or committed to continue [conflict] by prior statements. . . . In such circumstances, some sort of *shock* may be needed to bring them to their senses—a striking event that dramatizes the hopelessness of their campaign or the costs and risks involved in pursuing it."); *Id.* at 172 (discussing a path to replacing escalating conflict with de-escalation when "a powerful third party (or parties) enters the scene and *imposes a settlement*." In alienation cases, the no-contact order can be the striking event delivered by a third party.").

months or years of exclusive contact with the favored parent often in violation of court ordered schedules of contact with both parents. The length of time of the no contact order usually is a fraction of the amount of time that the children have been apart from the rejected parent. Often the period of no contact is comparable to the length of time children are apart from parents during attendance at summer camps, boarding schools, and foreign study programs.

2. Potential Drawbacks of Placing Children with Their Rejected Parent

A drawback of placing children against their will with the rejected parent is that the children may, *but do not invariably*, experience more stress in the short run, particularly if the family receives no help to adjust during the transition period. An intensive educational workshop, Family Bridges, can assist the children in making the transition.⁸⁰ To date, this workshop is the only intervention that has documented a high rate of success in overcoming severe alienation.

Another potential drawback of placement with the rejected parent is that in cases where the parents live a considerable distance apart from each other, this option may require a change of schools and communities. The court may determine that the risks to the children of losing part of their family far outweigh the risks of adjusting to a change of schools or a geographical change.

In many litigated cases, severely alienated children have long felt empowered and entitled to make their own decisions about whether and under what circumstances they will have contact with the rejected parent. When the court issues an order for placement with the rejected parent, some children threaten to defy court orders, run away, or do violence to themselves or others. Threats to act in dangerous and destructive ways must receive serious attention. Some alienated children are at risk for

⁸⁰ Warshak, *supra* note 24; Warshak, *supra* note 34; Richard A. Warshak, *Family Bridges: A Workshop for Troubled and Alienated Parent-Child Relationships*, <http://www.warshak.com/services/family-bridges.html> (last visited Apr. 22, 2014); Richard A. Warshak & Mark R. Otis, *Helping Alienated Children with Family Bridges: Practice, Research, and the Pursuit of “Humblition,”* 48 FAM. CT. REV. 91 (2010).

acting out against the parent they profess to hate especially with their aligned parent's encouragement.⁸¹ The potential risks must be weighed against the potential benefits and should be taken into account in structuring family transitions. In some cases the parent receiving the children hires therapeutic escorts to safely transport children to an intervention that assists the family to re-unite safely and effectively. The risks must also be evaluated in the context of reports that children often make empty threats that evaporate when they realize that the court will not acquiesce to their demands.⁸²

Two high profile cases illustrated how rapidly alienated children's behavior can shift from vehement protest to affectionate reunion even when transfers are emotionally intense and disturbing events. In 2000, six-year-old Elián González was videotaped by his relatives in Florida claiming that he wanted to stay in the United States and not return to his father in Cuba. In a pre-dawn raid, armed federal agents seized the terrified boy and returned him to his father. A photograph taken a few hours later shows Elián smiling in his father's arms.

The second example occurred in 2009. After a panel of psychologists concluded that Sean Goldman was a victim of parental alienation, and a Brazilian court ordered Sean's return to his father after a five-year separation, Sean's stepfather released a videotape in which the nine-year-old claimed that he wanted to

⁸¹ E.g., Fray, *supra* note 28 (A Kansas father who alienated his children conspired with the children to kill their mother after the custody evaluator recommended custody for her. The younger sister let her brother in the home at 2 A.M. and, armed with a baseball bat, and he brutally attacked his sleeping mother.).

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⁸² E.g., CLAWAR & RIVLIN, *supra* note 2, at 144 (discussing the effectiveness of changes in living arrangements and reporting, "Children may say, 'I hate her. I'll never speak with her if you make me go see her,' 'I'll run away,' or 'I'll kill myself if he comes to see me.' However, in some cases, children were told to say these things by the programming and brainwashing parent . . . It is not uncommon to see these threats disintegrate after court orders change."); Warshak, *supra* note 34, at 61 ("Repeatedly we have seen children (even those who had been out of contact with a parent for several years) back down from their threats and within 24 hours appear relieved, relaxed, communicative, and sometimes affectionate with the rejected parent."); Richard A. Warshak, *Plutoed Parents: Preventing and Overcoming Parental Alienation*. 11th Annual Family Law on the Front Lines Conference, University of Texas School of Law, Austin, TX (June 2011).

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remain in Brazil and have no contact with his father. To protest the Brazilian court's order to release Sean to his father, the family turned down the opportunity for a private handover and instead led the crying, frightened boy through a crowded street in front of reporters and cameramen. According to the Congressman who accompanied Sean's father, once reunited inside the U.S. Embassy, father and son were smiling with their arms around each other.

Children's resistance to returning to an alienated parent is likely to be more intense and prolonged if the court announces its decision while the children are still in the care of their favored parent. In such cases, during the interval between the court's decision and the physical transfer of the children, some favored parents convey to children, in effect, "I've exhausted my options. If you want to live with me it is up to you to convince everyone that the court's plan will not work." The children develop the idea that vehement protests, refusals to comply, and threats to run away will defeat the court's intentions as they have in the months and years that preceded the current round of litigation. To spare children this additional pressure, courts can order the parent in possession of the children to bring them to the courthouse on the day the decision will be announced. For some children in these situations, advance notice of a custody change, rather than help manage anxiety, escalates it to levels that are more difficult to manage.

Courts may hear expert opinions predicting dire consequences to children if the court fails to endorse the children's strong preferences to avoid a parent. Usually such opinions are vulnerable to reliability challenges because they cite undocumented anecdotes, irrelevant research, and discredited interpretations of attachment theory. No peer-reviewed study has documented harm to severely alienated children from the reversal of custody. No study has reported that adults, who as children complied with expectations to repair a damaged relationship with a parent, later regretted having been obliged to do so. On the other hand, studies of adults who were allowed to disown a parent find that they regretted that decision and reported long-term

problems with guilt and depression that they attributed to having been allowed to reject one of their parents.⁸³

On close examination research studies that experts cite to support predictions of damage to children who are separated from aligned parents lack relevance and generalizability to parental alienation situations. The studies focused on children who were orphaned, or evacuated from war zones, or hospitalized in decades when the parents were barred from spending the night with their ill children.⁸⁴ These situations are irrelevant to children who will be apart from one parent and with their other parent with whom they previously had a good relationship. Experts also base dire predictions about the traumatic impact of separating children from one parent ostensibly on attachment theory. However, a consensus of top authorities on attachment and divorce holds that contemporary attachment theory and research do not predict harm to children who are separated from one parent and placed with the other parent.⁸⁵

C. Placement Apart from Both Parents

The third option places the child apart from both parents. This could be with a relative, boarding school, therapeutic residential school, college preparatory school, military academy, or foster home.⁸⁶ It is important to avoid placement with a person whose behavior contributes to or supports the child's irrational alienation. This option may be desirable in cases where the court wants to reduce the children's contact with the favored parent but the rejected parent is unable to assume the full-time care of the children. It is also an option when the child needs to be removed from the favored parent's care but cannot safely live with the rejected parent.

In some cases the placement is temporary or designed to facilitate a subsequent and perhaps gradual transition to the cus-

⁸³ E.g., BAKER, *supra* note 17.

⁸⁴ WARSHAK, *supra* note 22, at 35-36.

⁸⁵ Richard A. Warshak, with the endorsement of the researchers and practitioners listed in the Appendix, *Social Science and Parenting Plans for Young Children: A Consensus Report*, 20 PSYCHOL. PUB. POL'Y & L. 46 (2014).

⁸⁶ Elizabeth M. Ellis, *Help for the Alienated Parent*, 33 AM. J. FAM. THERAPY 415 (2005); Matthew J. Sullivan & Joan B. Kelly, *Legal and Psychological Management of Cases with an Alienated Child*, 39 FAM. CT. REV. 299 (2001).

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tody of the rejected parent.⁸⁷ Rather than immediately transfer the children's primary residence from the favored parent to the rejected parent, the court may determine that the transfer will be easier to implement in a two-stage process. First the children leave the immediate orbit of their favored parent and live with a third party or in a facility. Subsequently the children move in with their rejected parent. Some support for the benefits of being apart from both parents may be extrapolated from reports of college students who are able to reconnect with an alienated parent after leaving the favored parent's home to attend college.⁸⁸

The cases of third party placement with which this author is most familiar are those in which the court grants custody to the rejected parent, including the authority to make decisions regarding the children's health care and education, and the parent uses this authority to admit children to a residential treatment program, therapeutic wilderness program, or boarding school. In some cases parents elect this option when their children suffer psychological disturbances, or substance abuse problems, that are independent of their irrational alienation and require treatment in a protecting setting. In other cases parents place children in a facility or residential therapeutic program when the children's hostility is so high and self-control so poor that the children are neither ready to move in with the parent nor willing to participate in an intervention to assist them in adjusting to the court orders. When their emotional status stabilizes, the children are ready to participate in a program such as Family Bridges to facilitate their reunification with the rejected parent.

A benefit of placing children apart from both parents is that it removes children from direct exposure to family tensions and allows them to concentrate on their own development. Psychotherapy conducted with children when they are away from their parents and associated pressures may have greater success in assisting them to develop more balanced views of each parent. Some clinicians see this option as possibly the least detrimental

⁸⁷ RICHARD A. GARDNER, THERAPEUTIC INTERVENTIONS FOR CHILDREN WITH PARENTAL ALIENATION SYNDROME (2001).

⁸⁸ See Johnston & Goldman, *supra* note 20, at 113; Richard Warshak, *College Helps Renew Parent-Child Ties*, HUFFINGTON POST, Sept. 5, 2011, http://www.huffingtonpost.com/richard-warshak/college-helps-renew-parent_b_943542.html.

alternative for adolescents who are functioning poorly, are subject to parental pressures to align with one against the other, are exposed to chronic conflict between the parents, and have been unable to find relief from prior interventions.⁸⁹

A drawback of this option is that the child forgoes regular face-to-face contact with both parents, yet may not be spared alienating influences through other means of communication. Also, the expense of residential schools is outside the reach of most families. We have no empirical studies about the efficacy of third-party placements in overcoming children's severe alienation. This author's experience with families who have exercised this option is that it can bring the anticipated benefits. One mother said:

I have had more contact with my son in the past month than he has been away at school than in the past three years that my children have been alienated from me. The environment at the school has allowed him to be a "normal" 16-year-old boy and not have to live in the day-to-day adult conflict. While I do not see him as often, we have more frequent and better communication.

An additional benefit is that the school keeps the rejected parent informed about the child's schedule, activities, and academic, emotional, and social adjustment. In severe alienation cases, the favored parent often strives to conceal from the rejected parent any information about the children and their activities.

D. Custody with the Favored Parent, No Scheduled Contacts with the Rejected Parent, and No Court-ordered Intervention

The fourth option places children with their favored parents and suspends contact with the rejected parents unless and until the children elect to make contact. In essence this option surrenders attempts to remedy severe alienation. Instead, the court acquiesces to the children's demands to remove all expectations for contact with their rejected parents and empowers the children to make these decisions. This option is usually seen as a last resort exercised for reasons such as:

1. The court concludes that time itself will heal the problem and relieve the children's suffering.

⁸⁹ E.g., Sullivan & Kelly, *supra* note 86.

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2. The court concludes that no resolution is possible or feasible without doing greater damage.
3. The court determines that it is beyond its power or authority to force children to have contact with a rejected parent.
4. The court concludes that it is helpless to prevent the favored parent and children from sabotaging scheduled contacts with the rejected parent.
5. The court determines that the children have sufficient maturity, long-term perspective, and independence of judgment to be competent to make a decision.
6. The children will need effective professional assistance to adjust to living with the rejected parent and such help either is unavailable or unaffordable.
7. The rejected parent is unable or unwilling to invest the time and money in litigation, or unwilling to expect resistant children to participate in an intervention designed to alleviate the problems.

The main benefits of this option are that it may provide short-term relief for the children, avoids potential adjustment problems in overturning the status quo, and may allow the children to function well in the short term in areas not directly related to the parent-child relationship such as school and relationships with peers and other adults.

The drawbacks of this approach, particularly when the children have refused to cooperate with the court-ordered residential schedule, are considerable. They include:

1. The children and the favored parent may interpret this as parental abandonment, despite the history of the rejected parent attempting to re-establish contact.
2. The children are encouraged to avoid rather than manage conflict.
3. The children's irrational beliefs about the rejected parent could be reinforced.
4. If the favored parent's behavior is considered to be a form of psychological abuse, the court facilitates the children's continued exposure to toxic parenting rather than protecting them from further abuse.
5. The children receive no help to better understand their relationship with each parent which might reduce the

likelihood of future problems related to a loss of such magnitude.

6. Children who have repeatedly flouted court orders for contact and threatened to misbehave if the court did not endorse their preferences, if allowed to trump the court's authority, may continue to believe that they are entitled to dictate the terms of their relationship with their parents. They may come to believe that disrespect and demands are effective means to gain compliance from adults, and may generalize this experience to conclude that the law can be ignored with impunity.
7. The children lose the benefits of the rejected parent's contributions, involvement, and expressions of love. Research identifies the importance of children's healthy relationship with two parents;⁹⁰ in many cases of severe alienation, the children are losing the healthier of the two parents.
8. Children run the risk of suffering lifelong estrangement from their rejected parents, with all the psychological consequences of such a loss including the intergenerational loss that the children's future children (the grandchildren of the rejected parent) may suffer by being deprived of a relationship with their grandparents.
9. Even if the children and rejected parent eventually reconcile, they have lost years of involvement, a loss that often includes the extended family. In some cases, by the time the children try to reconnect, rejected family members are no longer living.
10. In the future the children may suffer regret, shame and guilt for having rejected the parent.⁹¹ This is compounded when the children are mature enough to realize the magnitude of grief suffered by a parent who loses a child.

⁹⁰ E.g., Joan B. Kelly & Robert E. Emery, *Children's Adjustment Following Divorce: Risk and Resilience Perspectives*, 52 FAM. REL. 352 (2003).

⁹¹ E.g., Richard A. Warshak, *Payoffs and Pitfalls of Listening to Children*, 52 FAM. REL. 373 (2003).

VI. Mental Health Evidence and Interventions in Alienation Cases

Cases with severely alienated children present unique challenges in family law. Their disposition requires a multi-factored best-interests analysis rather than a uniform solution.⁹² Testimony by mental health experts in severe alienation cases is most helpful to the court and more likely to be judged as reliable when the witness has the training, credentials, and experience to understand and communicate the nuances of a competent evaluation of alienation allegations.

A. Some Concerns About Mental Health Evidence

Some experts proffer opinions on issues related to custody evaluations, such as how to evaluate the relative contributions of each parent to a child's alienation, despite their lack of knowledge, training, or experience in conducting clinical and forensic evaluations. This leaves their testimony open to reliability challenges and impeachment on the grounds of the witness' inadequate qualifications.⁹³

Zealous advocates with extreme positions about certain issues (e.g., parental alienation, child abuse, or domestic violence) may see all cases through a single lens. They quickly reach conclusions about the nature and roots of children's alienation with inadequate attention to alternative interpretations of the data. They may selectively and heavily rely on a few studies, often their own, without citing studies that reach different conclusions and without assisting the court in understanding the limitations of their own research. The result is biased testimony that lacks trustworthiness.⁹⁴ Their recommendations may lack a docu-

⁹² See Richard A. Warshak, *Parenting by the Clock: The Best Interests of the Child Standard, Judicial Discretion, and the American Law Institute's "Approximation Rule,"* 41 U. BALT. L. REV. 83 (2011).

⁹³ JOHN A. ZERVOPOULOS, HOW TO EXAMINE MENTAL HEALTH EXPERTS: A FAMILY LAWYER'S HANDBOOK OF ISSUES AND STRATEGIES 3 (2014).

⁹⁴ See TERENCE W. CAMPBELL & DEMOSTHENES LORANDOS, CROSS EXAMINING EXPERTS IN THE BEHAVIORAL SCIENCES (2001); JOHN A. ZERVOPOULOS, CONFRONTING MENTAL HEALTH EVIDENCE: A PRACTICAL GUIDE TO RELIABILITY AND EXPERTS IN FAMILY LAW (2009); Daubert v. Merrill Dow Pharm., Inc., 509 U.S. 579, 593 (1993).

mented record of effectiveness and may be contrary to accepted learned treatises in the field.

In some cases, the court relies heavily on mental health expert evidence and testimony in reaching the decision to place a severely alienated child with the favored parent and suspend contact with the rejected parent either with or without ongoing treatment (options one and four discussed above). Effective cross-examination of mental health experts often uncovers the absence or paucity of their experience in overcoming severe alienation. With very few exceptions, the expert's experience is limited to working on cases with children who remain primarily in the care of the favored parent, or whom the court places with the rejected parent but who receive no effective help to adjust to the court orders. The expert has no long-term experience with children who present as severely alienated and who, in a reasonable length of time, recover affectionate feelings, correct cognitive distortions, and resume normal behavior with the parent who had been rejected.

One custody evaluator recommended custody to the alienating father and suspension of scheduled contacts with the rejected mother despite his opinion that the adolescent's psychological welfare was jeopardized in his father's home. Rejecting the evaluator's recommendation, the judge followed the guardian ad litem's recommendation and ordered the teen returned to his mother and both to attend a Family Bridges workshop. Following the boy's participation in a Family Bridges workshop, and the rapid and successful resolution of his alienation, the custody evaluator admitted that the primary reason for his recommendation was that he could not envision the boy overcoming his animosity and safely adjusting to living with his mother. Despite being a seasoned custody evaluator, he had no experience with an effective intervention like Family Bridges and little confidence that an angry adolescent would come to see his mother in a more realistic and benign light. He simply concluded that this teen and his mother were beyond help.

Older and smarter children can be very convincing in their accounts of poor treatment at the hands of the rejected parent as well as the absence of warmth, affection, and good experiences with that parent. They make trenchant criticisms of a parent that appear mature, reasonable, and based on their own experience of

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the parent. They may convince evaluators and therapists that they are unwilling or incapable of modifying their negative behavior and attitudes about the rejected parent. An expert may believe that because a child apparently feels so strongly about avoiding a parent, the court has no viable option other than to give children what they demand. Such an expert may offer an opinion that is shaped primarily by the degree of the child's expressed resistance to reunification. The expert may believe, without reliable basis, that attempting reunification necessarily entails considerable risk to the child's well-being with little expectation of accomplishing the goal of normalizing the relationship. Such opinions, if not grounded in case-specific facts but instead representing general opinions about management of severely alienated children, cannot be defended as reliable in the legal sense of being trustworthy.⁹⁵

Mental health professionals who work with abused children in child protection settings understand that children may protest being removed from a harmful environment yet demonstrate rapid relief once this occurs.⁹⁶ Experts with sufficient experience in helping children adjust to court orders that place them with the rejected parent and suspend contact with the favored parent for an extended period of time have the opportunity to witness the speed with which children and adolescents recover their submerged desire and ability to relate affectionately to the parent. Experts with this background are less apt to be persuaded by children's strong protests and more likely to have confidence in the prospects of a better future for the parent-child relationship.

In cases with alienated adolescents, expert testimony can educate the court about the suggestibility of adolescents, their vulnerability to external influence, and their susceptibility to

⁹⁵ See *Daubert*, 509 U.S. at 593.

⁹⁶ See Stephanie D. Block et al., *Abused and Neglected Children in Court: Knowledge and Attitudes*, 34 CHILD ABUSE & NEGLECT 659, 659 (2010) ("[M]ost children wanted to return home."); Douglas F. Goldsmith et al., *Separation and Reunification: Using Attachment Theory and Research to Inform Decisions Affecting the Placements of Children in Foster Care*, 55 JUV. & FAM. CT. J. 1, 1 (2004) ("[C]hildren find themselves torn between forming an attachment to their foster parents while simultaneously longing to return to their parents. It may be surprising to some that this longing develops even when there has been a documented history of maltreatment.").

immature judgment and behavior.⁹⁷ These limitations are well known in the fields of adolescent development and neuropsychology, and account in part for the consensus view of psychologists that juveniles merit different treatment by the legal system than adults receive.⁹⁸

Professionals who rely on untested speculations, and lack relevant experience with severely alienated children, proffer conclusions and predictions that may reflect biases more than reliable opinions: 1) They tend to underestimate the difficulty that severely alienated children face when trying to overcome alienation while living with the favored parent; 2) they fail to appreciate the extent to which the preferences that children state may not reflect the full range of the children's genuine feelings about their parents; 3) they assume that courts will be unable to enforce compliance with orders that place children with their rejected parents; and 4) they overemphasize the risks of separating the children from their favored parents relative to the risk and tragedy of the children remaining alienated from their rejected parents, missing out on those parents' input, and being unable to give to and receive love from those parents.

B. *Risks of Intervening Versus Risks of Maintaining the Status Quo*

Despite the propensity of inexperienced professionals to overestimate the risks incurred by placing children with their rejected parent as described above, each option for dealing with severely alienated children carries potential benefits and risks. The potential risks should be weighed against the potential benefits and taken into account in structuring family transitions.

⁹⁷ E.g., Elizabeth F. Loftus, *Make-Believe Memories*, 58 AM. PSYCHOL. 867 (2003); Laurence Steinberg et al., *Are Adolescents Less Mature Than Adults? Minors' Access to Abortion, the Juvenile Death Penalty, and the Alleged APA "Flip-Flop"*, 64 AM. PSYCHOL. 583 (2009); Laurence Steinberg & Elizabeth S. Scott, *Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, 58 AM. PSYCHOL. 1009 (2003).

⁹⁸ Brief for the American Psychological Association, and the Missouri Psychological Association as Amici Curiae Supporting Respondent, *In re Roper v. Simmons*, 543 U.S. 551 (2005)(No. 03-633), available at <http://www.apa.org/about/offices/ogc/amicus/roper.pdf>.

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The main concerns about overriding children's stated wishes are that the children may defy the court's expectations, may commit destructive acts against themselves (e.g., running away or physical harm) or towards the rejected parent, and may falsely accuse the rejected parent of abuse in order to be removed from that home. No systematic large-scale research compares the risks versus benefits of the four options discussed above. In earlier works, I have described the power of the court's firm authority to elicit a recalcitrant child's compliance and reduce the risks of acting out by making it clear to the child that such behavior will not result in the court appeasing demands to return to the favored parent and may in fact delay the reunification with that parent.⁹⁹

It is impossible to predict with certainty how any child will react to firm attempts to repair a damaged relationship with a parent. Based on their large-scale study, Stanley Clawar and Brynne Rivlin conclude:

There are risks incumbent in any process; however, *a decision has to be made as to what is the greater risk*. It is usually more damaging socially, psychologically, educationally, and/or physically for children to maintain beliefs, values, thoughts, and behaviors that disconnect them from one of their parents (or from telling the truth, as in a criminal case) compared to getting rid of the distortions or false statements.¹⁰⁰

The potential damage in maintaining the status quo for a severely alienated child is described in detail in the earlier discussion of the drawbacks of suspending required contact between the child and rejected parent and delegating the authority to the child to determine whether and when contacts resume.

When the court determines that a child's interests are best served by reuniting with a rejected parent, and that the child's alienation arises in the shadow of, or reflects an identification with, the favored parent's negative attitudes, research and experience suggest the importance of several conditions that favor a successful reunification. These include giving children sufficient time with the rejected parent and reduced contact with people whose negative attitudes have influence over the children (including relatives and friends of the favored parent). Renewed contact with the favored parent can be titrated in frequency and structure, ranging from relatively brief contacts with onsite moni-

⁹⁹ Warshak, *supra* note 34.

¹⁰⁰ CLAWAR & RIVLIN, *supra* note 2, at 141 (emphasis in original).

toring to more frequent contacts outside the physical presence of a monitor but with oversight, to the resumption of regular, unmonitored contacts. The children's progress in healing their relationship with the custodial parent whom they had formerly rejected should inform the schedule and speed of incremental changes in their contact with the noncustodial parent. Briefer contacts with the noncustodial parent can be expanded when the parent has demonstrated a willingness and capability of supporting the children's progress and the contacts do not undermine this progress. Progress can be facilitated through skilled intervention for the family along with a strong message from the court about the consequences for violating court orders. Based on their analysis of the relevant literature, Fidler and Bala conclude "All severe and some moderate cases of alienation . . . are likely to require a different and more intrusive approach if the relationship with the rejected parent is not to be abandoned and the alienation is to be successfully corrected."¹⁰¹

The social science literature emphasizes the importance of contact between children and the rejected parent, but in some instances contact alone is insufficient to promote adequate healing. Especially when children expect the status quo to continue, court orders that place them with the rejected parent, and suspend their contact with the favored parent, can be quite a shock. In such cases, appropriate interventions with the family can help children adjust to the court orders, recover a positive relationship with the rejected parent, and prepare for the resumption of contact with the noncustodial (formerly favored) parent.

C. Family Bridges

Family Bridges: A Workshop for Troubled and Alienated Parent-Child Relationships™ (Family Bridges) is a structured, four-day, educational and experiential program that helps families make a safe transition and adjust to court orders that bring children and their rejected parent together and suspend contact with the favored parent for an extended period.¹⁰² Christine Lynn Norton draws on developmental psychology and neurobi-

¹⁰¹ Fidler & Bala, *supra* note 52, at 25.

¹⁰² See generally Warshak, *supra* note 24; Warshak, *supra* note 34; Warshak, *supra* note 80; Warshak & Otis, *supra* note 80.

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ology to emphasize the importance of providing children and adolescents with experiences that facilitate empathy, connection, and wellness: “These experiences can help them to create a new narrative about their lives, one that is more cohesive, more hopeful, and allows them to begin to see themselves in a new place and begin to ‘let the future in.’”¹⁰³ Along these lines, Family Bridges helps children re-create their identity as persons who can give and receive love from two parents, gives them the experience of relating benevolently to the formerly rejected parent, gives them a face-saving way to correct cognitive distortions, and shows them how to move beyond the past to more rewarding relationships with both parents.

The Family Bridges workshop has helped families with alienated children throughout the United States and in other countries for the past 23 years and is the only U.S. program for severely alienated children whose success has been documented in a refereed article with follow-up data. A comprehensive account of the program’s goals, principles, structure, procedures, syllabus, limitations, and preliminary outcomes is available in previous publications.¹⁰⁴

The Family Bridges workshop replaces the structure of traditional weekly 45-minute office sessions with an intensive private four-day workshop intervention usually conducted in a resort setting. In addition to structural changes, the program uses content and procedures that are fundamentally different from psychotherapists’ usual materials and approaches. The children’s reintegration with the rejected parent is accomplished both through the process and the content of the workshop. In line with intergroup contact theory, bringing parent and child together, with the support of the court, to work cooperatively on common goals helps lessen hostility and prejudice.¹⁰⁵ The syllabus covers the underlying processes that contribute to parental alienation. Carefully chosen, engaging, entertaining, evocative, and educational audio-visual materials and exercises teach how distortions in

¹⁰³ Christine Lynn Norton, *Reinventing the Wheel: From Talk Therapy to Innovative Interventions*, in INNOVATIVE INTERVENTIONS IN CHILD AND ADOLESCENT MENTAL HEALTH 2 (Christine Lynn Norton ed., 2011).

¹⁰⁴ Warshak, *supra* note 24; Warshak, *supra* note 34. For a briefer overview and answers to frequently asked questions, see Warshak, *supra* note 80.

¹⁰⁵ Brown & Hewstone, *supra* note 76.

memory, perception, and thinking occur. The materials also teach how negative stereotypes form under the influence of suggestion and authority figures, how parental conflict harms children, how to think critically, how children can stay out of the middle of their parents' conflicts, and how the children and parent can better communicate and manage conflict. Children learn how to maintain balanced, realistic, and compassionate views of both parents. The program also offers a subsequent workshop for favored parents who attend voluntarily, but does not accept referrals of favored parents whose attendance is mandated by the court.

Joan Kelly, a leading authority on divorce, notes the scientific basis for Family Bridges:

In the overall development of Family Bridges, its goals and principles, and particularly the varied and relevant materials selected for use with parents and children, the incorporation of relevant social science research was evident. Further, the daily structure and manner of presentation of the Family Bridges Workshop were guided by well-established evidence-based instruction principles and incorporated multi-media learning, a positive learning environment, focused lessons addressing relevant concepts, and learning materials providing assistance with integration of materials. The most striking feature of the Family Bridges workshop was the empirical research foundation underlying the specific content of the 4-day educational program. The lessons and materials were drawn from universally accepted research in social, cognitive, and child developmental psychology, sociology, and social neuroscience.¹⁰⁶

Most of the children who attend Family Bridges have led custody evaluators, parents, and the court to expect no cooperation when it comes to accepting placement with the rejected parent. All the children have had failed experiences with counseling prior to enrollment. Some have threatened to act out, insist that they will not comply with court orders, and act as though they are above the law. Nevertheless, in line with Clawar and Rivlin's observations, when the court issues its orders, most of the threats give way to muted disappointment in the court and anxiety about the future.¹⁰⁷

Although at first children are overtly unhappy with the court orders, the workshop begins with videos that are immediately en-

¹⁰⁶ Kelly, *supra* note 8, at 83.

¹⁰⁷ CLAWAR & RIVLIN, *supra* note 2, at 144.

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gaging, entertaining, and nonthreatening, and the children settle down to the task of learning how to live as a family with the parent whom they have been rejecting. Early in the workshop, usually during the first day, the children begin communicating directly and somewhat positively with the rejected parent and appear relieved to be offered a face-saving way to reconnect. In a study of a sample of 23 children who participated in the workshop, 22 restored a positive relationship with the rejected parent by the workshop's conclusion.¹⁰⁸ At follow-up, 18 of the 22 children maintained their gains; those who relapsed had premature contact with the alienating parent.

A study of a larger sample is in progress analyzing data on 88 children who enrolled in the Family Bridges workshop. Thirty-nine of the 88 participants were 14 or older; 26 were 12-13 years old. There were 55 boys and 33 girls. Nearly half of the group of rejected parents are mothers. The preliminary results parallel those found with the smaller sample.

At the workshop's conclusion, 95% of the child participants recovered a positive relationship with the rejected parent (Sign and Binomial Test, $p < .0001$). Most of these children previously frustrated the court-ordered parenting plan and threatened to continue to do so if the court did not endorse their stated preferences. With the help of the four-day workshop they were able to accomplish the goal of adjusting to the transition put in place by the court orders. They complied with the court's custody decision, and were prepared to return home with their formerly rejected parent, live with that parent safely and in relative harmony, manage conflicts with newly learned skills, and avoid any of the dangerous and noncompliant behaviors that they previously threatened. On follow-up, 83% of the sample enjoyed good relationships with the parents they had formerly rejected (Sign and Binomial Test, $p < .0001$).¹⁰⁹ The most prevalent factor

¹⁰⁸ Warshak, *supra* note 34. The one child who did not successfully complete the workshop was a girl just shy of her eighteenth birthday. She knew that she would soon fall outside the jurisdiction of the Family Court and not be subject to the order for suspended contact with the favored parent and she made it clear at the outset that she would remain at the workshop to support her younger siblings but had no intention of actively participating.

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¹⁰⁹ Richard A. Warshak, Family Bridges Outcome Study #2 (in preparation).

associated with a child's relapse into rejecting the parent was the child's premature contact (usually clandestine and in violation of the court orders) with the other parent whose negative influence was formidable and rendered the child unable to resist.

Often a parent, attorney, or judge hopes that the workshop can resolve a custody dispute by repairing a damaged parent-child relationship in a context that fails to meet the enrollment prerequisites or when the favored parent maintains custody and significant residential time with the child or will resume custody upon completion of the workshop. Unfortunately, this program is not designed for any of these circumstances and is usually not offered in such cases. One judge opined that the workshop, coupled with a change in custody, was the only potential remedy for a seventeen-year-old boy who, the court found, was the victim of his father's deliberate behavior to alienate the child from his mother.¹¹⁰ In her decision Justice Mesbur ruled, "The Workshop is a last resort. Obviously it would have been better had these problems been identified and corrected early on. . . . Unfortunately, they were not. This leaves the Workshop as [the child's] best last hope."¹¹¹ The boy and his mother did accomplish a successful reunification with the help of Family Bridges.

The impact of Family Bridges workshops continues to be studied using independent and multi-measure pre- and post-workshop assessments of parent-child relationships. Follow-up studies compare changes in children who participated in Family Bridges with alienated children who did not participate. These studies are eliciting data that help understand how participants view specific aspects and components of the workshop as well as the overall experience. The workshop's impact on children's attitudes and behavior is assessed through observations and ratings by clinicians, parents, and children. Preliminary review of anonymous ratings by parents and children give the program high marks. The children acknowledge that when they first learned of the workshop they felt very negative about having to attend, but that upon its completion their attitudes about the experience are positive and they believe that other families in similar situations would benefit from the program. Their ratings indicate that the

¹¹⁰ S. B. B. v. S. J. L. [Indexed as: B. (S. G.) v. L. (S. J.)]. 2010 ONSC 3717 Superior Court of Justice, Justice Mesbur (June 30, 2010).

¹¹¹ *Id.* at 14, ¶ 71.

workshop successfully accomplished its goals and most participants experienced it as an educational program in contrast with their previous experiences in counseling. The children report that the workshop leaders treated them with respect and kindness.

An example is one young man who looked back on his experiences with Family Bridges. He said that throughout the litigation when he was insisting to the custody evaluator and the guardian ad litem that he hated his mother and never wanted to see her again, he never expected the court to take him seriously. He is grateful that the court did not appease his demands and that the court protected him from the tragic loss of his mother and his extended family. This teen's experience with Family Bridges influenced him to pursue the study of critical thinking at a prestigious college.

VII. Practice Tips for Lawyers and Judges in Cases with Parental Alienation Issues

The following tips are for situations where children are irrationally alienated from a parent or at risk for becoming so. They do not apply to litigants whose children's rejection is a reasonable response to the rejected parent's behavior and whose children's best interests are served by avoiding contact with the parent, as for instance, when there has been a finding of abuse by the court.

A. Tips for Lawyers Representing a Parent Who Is Alienated or at Risk for Becoming Alienated

1. Prioritize getting the case before the court quickly. Swift action is key to successful outcomes. The effects of toxic parenting spread rapidly yet these cases slog through a quicksand of legal maneuvering, failed attempts to modify the behavior of alienating parents, and court orders that repeatedly go unheeded without consequence. Your clients want their case treated with the urgency given to cases with missing children because, for them, their children are missing.
2. Encourage clients to do their best to maintain contact with their children despite obstructions they encounter and despite the children's aggression and scorn. The ab-

sence of regular contact leaves children more vulnerable to seeing your client through the eyes of their other parent and deprives the children of experiences that may challenge their negative views of your client. Also, the more time parents and children are apart, the more difficult it is to overcome the status quo and reunify them.

3. Refer clients to resources that can help them better manage the situation. Suggest books, DVDs, and other material to help them better understand and cope with what is happening in their family. Alienated children, and their favored parent, often provoke maladaptive reactions. Clients who respond ineffectively to their children's contemptuous behavior may subsequently be held responsible for their children's rejection. Ineffective responses, such as counter-rejecting the children or yelling at them, play into the hands of the alienating parent, reinforce the campaign against your client, and make it more difficult for the custody evaluator and the court to understand the roots of the problem. The alienated parent's desperate, but unhelpful behavior is sometimes interpreted as the reason the children avoid contact. It is best to be proactive rather than react after complications develop. Do not assume that your clients will respond well to the challenging behavior of their former partners and their children. Refer them to professionals who can help alienated parents avoid the most common errors and help them cope with grief over the loss of their children's affection and contact.
4. Secure detailed orders for parent-child contacts with penalties for noncompliance and move quickly for sanctions when the orders are violated. On a *pendente lite* basis, ask the court to order consistent contact between your client and the children. Try to avoid a situation where such contact is suspended or eliminated.
5. If there are allegations of undue influence by a parent during the other's parenting time, ask the court to provide for "no contact" during the rejected parent's designated time with strong sanctions for noncompliance. If granted, this could prevent an enforcement application down the road.

6. Propose custody evaluators and therapists who are familiar with the literature on parental alienation and have experience with such cases. Evaluations in cases raising issues of parental alienation are not routine. The American Psychological Association *Guidelines for Child Custody Evaluations in Family Law Proceedings* state: “psychologists strive to gain and maintain specialized competence.”¹¹²
7. Hire a mental health expert early in the case to direct the court’s attention to learned treatises on parental alienation, and to educate the court about the characteristics of alienated children and the benefits and drawbacks of various remedies. This expert should not recommend custody for the family in question and should not later evaluate the family.
8. If the children have been meeting with a psychotherapist selected by the other parent and without your client’s knowledge, be cautious about advising your client to participate in sessions with that therapist. Although therapists should not opine on custody, frequently they do, and their testimony can be bolstered with the claim that it is based on input from both parents rather than hearing from only one side in the litigation.
9. Establish that the children’s rejection is unjustified by examining the basis of the children’s complaints about your client and documenting that a better parent-child relationship existed in the past. Consider whether the complaints are exaggerated, whether they are disproportionate to the degree of the children’s animosity or fear, and whether your client’s behavior would be considered detrimental to the children if the parents were still living together. Although some alienated children have grown up in dysfunctional families where for years they were encouraged to align with one parent against the other one, it is easier to prove the unreasonableness of children’s alienation if the rejected parent previously enjoyed positive relationships with the children. This can

¹¹² American Psychological Association, *Guidelines for Child Custody Evaluations in Family Law Proceedings*, 65 AM. PSYCHOL. 863, 864 (2010) (Guideline 4).

be documented with evidence from people who have witnessed the change in the children's behavior and attitudes, such as relatives, friends, teachers, coaches, neighbors, and clergy, and with documents such as photographs, family videotapes, loving notes and cards from the children to their parents.

10. Develop effective cross-examinations of expert witnesses who offer recommendations that are unlikely to alleviate the children's alienation. A trial consultant can be a useful resource for this task.
 - a. Mental health professionals sometimes recommend traditional psychotherapy that has no documented record of effectiveness if the children remain in regular contact with an alienating parent. The professional literature does not support such a therapy approach.
 - b. Expose the lack of research and professional experience behind evaluators' recommendations that do not include the children's placement with their rejected parents. Most evaluators lack experience with children who rapidly recover their affection for a parent in the aftermath of being placed in the rejected parent's custody.
 - c. Be alert to a common error by evaluators who attempt to appear neutral by placing undue weight on the rejected parent's mistakes and flaws as contributing factors to the children's alienation. Although some children reject a parent based on strong realistic complaints combined with strong unreasonable complaints, in many cases the favored parent eagerly fans the flames of negative feelings. Just as we have to be careful before concluding that a favored parent has engineered the children's rejection, we need to be careful before concluding that the rejected parent's behavior is significant in the genesis of the children's negative attitudes. A key question to explore is whether your client was able to enjoy a loving relationship with the children in the past despite your client's alleged flaws.

B. Tips for Lawyers Representing a Parent Who Is Alleged to Be Alienating the Children from the Other Parent

1. If your clients are aware that they are undermining their children's relationships with their other parent, impress upon them the damage this is likely to cause the children in the near-term and in the future.
2. Motivate your clients to do a better job of encouraging and supporting their children's relationship with their other parent by explaining the potential negative consequences to your client of their alienating behaviors. These include: 1) the possibility that their children will resent their bad-mouthing of their other parent and gravitate to an alignment with that parent, and 2) their alienating behaviors will create an unfavorable impression with a custody evaluator, child representative (e.g., amicus attorney, guardian ad litem), parenting coordinator or facilitator, and the judge. Evidence of clients' alienating behavior could contribute to their loss of custody, reduced or temporarily suspended contact with their children, or a requirement that their contacts be supervised.
3. If your clients endorse the idea that their children should be spending time with their other parent, but claim that they cannot prevail over the children's protests, ask them to consider how they would secure their children's compliance if they refused to attend school or visit a doctor when ill. If the children receive no negative consequences for refusing to see their other parent, and instead spend the scheduled contact time in rewarding activities, this may suggest that your client is not genuinely interested in supporting the children's contact with their other parent.
4. Ensure that your clients understand the possible legal consequences for interference with custodial contact and for violating court orders.
5. If psychotherapy is suggested or ordered for the family, explain the importance of cooperating with scheduling and keeping appointments, participating meaningfully in sessions, and implementing the therapist's recommendations. This provides evidence of your client's good-faith efforts to resolve alienation problems. To preempt premature terminations of treatment, tell your clients in ad-

vance that there will probably be things the therapist says and does with which they will disagree. Rather than end treatment because of this disagreement, they should discuss the issue with the therapist. When parents pull their children out of court-ordered treatment, they not only violate the court orders, they provide evidence of less than optimal parenting and weak commitment to helping children stay out of the middle of their parents' conflicts. This is particularly true if your clients have a history of terminating treatment when the therapist does not see things exactly their way.

6. Encourage clients to seek professional help to develop healthier ways to manage their disappointment and anger about the failure of the marriage. At the very least, clients should reserve their complaints and putdowns of their former partner for conversations with friends and relatives away from their children's earshot.
7. Advise clients to refrain from excessive or lengthy communications with children when they are with their other parent. Such communications may inhibit the children's ability and motivation to favorably adjust to contacts with the other parent and may create a record that can be used to demonstrate your client's alienating behavior.
8. Encourage clients to schedule rewarding activities for themselves when their children are away from home. This may reduce the sense of loss when the children are gone and reduce temptations to intrude on the children's time with their other parent through excessive communications.

C. Tips for Judges with a Case that Raises Parental Alienation Issues

1. Familiarize yourself with the current learned treatises concerning parental alienation.
2. If appointing a child representative such as an amicus attorney or guardian ad litem, choose someone who is familiar with the literature on parental alienation and has had experience with such cases.
3. If meeting with the children in chambers, be aware that alienated children can present convincing, yet false, com-

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plaints about the rejected parent. Impress upon the children that the court makes the decisions, that children are generally better off being raised by both parents, that you expect your orders to be obeyed, and that their parents will suffer consequences for noncompliance with court orders. If you have determined that the children's best interests are served by healing their relationship with their rejected parent, communicate to the children that failure in doing so is not a reasonable option and will not result in the court acquiescing to their demands to avoid a parent.

4. Be cautious when ordering psychotherapy and counseling. Naïve therapists who lack specialized knowledge and experience with alienation cases may inadvertently reinforce the children's alienation by accepting their patients' representations as accurate without adequately considering alternative plausible explanations.
5. Psychotherapists and counselors of family members in the case should not be permitted to offer custody recommendations, and the court should not rely on them even when it seems to be the most efficient way to address these issues.
6. When considering a decision to remove children from their favored parent's full-time care and place them with their rejected parent, be prepared to hear testimony from therapists and experts that predict great psychological trauma, harmful consequences, and destructive behavior. Often such predictions have no reliable basis and are made by professionals who lack adequate experience and are unfamiliar with the relevant family dynamics in the case.
7. Removing children from the favored parent's custody, and placing them with their rejected parent, should be considered when other options have met with failure. Consider the ten ways in which no-contact orders can benefit children's successful reunification with their rejected parent.
8. In cases where the children are to be placed against their objections with the rejected parent, consider ordering that the children be brought to the courthouse on the day

you announce your decision and kept in a location apart from their parents and with adult supervision while you announce the decision to the litigants.

9. Enforce your orders swiftly and unequivocally. When parents and children learn that the court does not enforce its own orders, they lose respect for the court and the law.

VIII. Conclusion

“All the therapists told me to sign over custody to Dad and just let it go,” said an alienated mother who works for a family law attorney. “They said there is nothing I can do to reverse the alienation.” Fortunately, the therapists are wrong—every successful case in Family Bridges began with the same pessimism.

Severe cases of parental alienation present unique challenges and have long frustrated professionals who try to assist families with this difficult and tragic problem. Fortunately, the availability of books and articles on alienation, educational videos for children, and interventions like Family Bridges is helping to provide an antidote to the discouragement and pessimism that permeates discussions about repairing severely damaged parent-child relationships.

The development of preventive programs that teach parents and children about parental alienation will reduce the number of cases needing more intensive and expensive help. Early identification of children at risk for alienation, and appreciation that divorce poison works swiftly to transform expressions of love into claims of fear and hatred, will help the legal system respond rapidly to protect children from the intensification of alienation.

Severely alienated children plead with custody evaluators, therapists, attorneys, and judges to allow them to excise from their lives one of the two people on the face of the planet responsible for their care. Despite weathering cruel treatment and untempered hatred that would drive most people away, many rejected parents maintain a steadfast commitment to their children’s welfare and invest considerable resources trying to restore positive relationships. Very often the tragedy extends to an entire half of the children’s family who remain astounded and deeply hurt at the formerly loving children’s complete estrangement.

The outcome of most divorce cases affects each parent’s financial situation and the amount and schedule of time they

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spend with their children. The outcome of cases with severely alienated children spells the difference between elated parents who recapture their identities as parents versus bereft parents who mourn the loss of their children and whose children grow up with parents who may be perpetrators of emotional abuse, who force them to make a child's version of Sophie's Choice, and fail to honor their right to love and be loved by two parents. If they don't find their way back to their rejected parents when these children grow up and have their own children, the next generation is deprived of a legacy. Helping these families is challenging and a heavy responsibility. It is not often that legal and mental health professionals get the chance to alter the course of generations.