

Presented:

2014 Innovations – Breaking Boundaries in Custody Litigation

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Dallas/Addison, Texas**A Systematic Approach to Reunification Therapy****Diana Friedman, Moderator**
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The first section of this paper has been taken from a paper written by Christy Bradshaw Schmidt, MA, LPC, and the Honorable Jack Marr for the Associate Judges' Workshop at Advanced Family Law 2013. The panel specifically wants to thank the Honorable Jack Marr for his contributions.

The second section of this paper was generously provided to the panel by Aaron Robb, PhD, based upon his cumulative work with the practice group to which he and Ms. Bradshaw Schmidt belong, North Texas Families in Transition Professionals, and other professional work groups of which he is a part. The panel specifically wants to thank Dr. Robb for his extensive work and contribution to this difficult topic.

Preface:

As Dr. Warshak's previous paper clearly indicates, a number of the cases involving reunification work are related to issues of irrational or unjustified alienation. However, there are also cases where children before the court are refusing to see one of their parents, and the reasons behind that refusal may or may not be related to irrational or unjustified alienation. We have all seen cases where a parent has engaged in certain behavior that has caused their children to desire to cease contact with a parent, and we have also seen cases where a child is refusing to see a parent for reasons unrelated to the issue of alienation. In turn, this brief paper will address the specific issues of reunification as a whole, as well as the factors to be considered in drafting orders for reunification counseling or therapeutic intervention.

A Brief Overview of the Issue of Reunification:

Reunification cases appear to be a newer or more frequent phenomena facing Judges, lawyers, and mental health professionals. These cases involve either an alienated parent and child or an estranged parent and child, and the question before the court is how to rectify and resolve the issues within that relationship. In the cases of extreme alienation, Richard Warshak has done a great deal of research that is quite helpful in understanding the significance of these cases, and he has proposed that in the worst of these types of cases, a change in physical possession may be warranted. However, in cases that are not quite that extreme, the question then becomes how to fix the relationship at hand, and to date, there is very limited research on this topic outside of Dr. Warshak's work.

Ms. Bradshaw Schmidt's practice group, NTFIT (North Texas Families in Transition Professionals), has been actively discussing and addressing this issue for some time and had been in the process of determining some appropriate policies, procedures, and sample court orders for managing this issue. The actual specifics were still in their infancy as of the date that this section of the paper was originally published, but here are the important factors that had been determined as of the fall of 2013:

1. *the court needs to determine if reunification is an "if" or a "when" scenario* - this specifically means that the court needs to instruct the mental health professional (who is often identified as the reunification counselor) whether or not the court is trying to determine "if" reunification will occur between the parent and the child or "when" reunification will occur between the parent and the child. Should the court determine that the question is "if," a child custody evaluation or guardian ad litem may be necessary.
2. *the parents need to be told what the court's determination is surrounding if and when* - it is important that the parents understand what the court's ruling is so that both parents are on the same page with the child within the reunification process. This also helps in the counselor's ability to notify the court when one parent is not in compliance with the court's determination.
3. *the court needs to determine what the final goal for reunification is* - if the court determines that the question about reunification is when, the next step is what the final goal needs to be. In other words, if the ultimate goal is for a child to transition to standard possession with that parent, the reunification counselor needs to know that. Often reunification counselors are ordered to begin counseling with the estranged or alienated parent and child, and they are told to initiate a stair step visitation schedule. However, that schedule is not clearly defined or a long-term goal is not established, and counselors cannot make parenting plan recommendations or rulings per the current standard of practice; so, they need the court's guidance on what the court wants to see happen.

4. *both parents need to be involved in the process* - it is preferred that a child in a reunification situation see both parents involved and supportive of the process. In addition, without both parents involvement in that process, it is difficult to determine if one of the parents is sabotaging the process. (NOTE: This does not apply to cases involving severe alienation where the child has been placed with the rejected parent. Those cases do not require involvement of the favored parent to be successful, and in extreme cases of abduction, the favored parent may be in jail or prohibited from having contact with the child per the court's order.)
5. *the counselor needs to be able to communicate any issues of non-compliance with the court* - the process truly benefits from a reunification counselor being able to report to both attorneys and the court when either parent is non-compliant with the process and with the court's rulings. Without this component, reunification counseling can flounder and be ineffective, which only makes the ultimate goal that much more difficult to achieve.

Based upon even these few initial factors, one can easily see that cases involving reunification create a unique set of circumstances that differ from family to family. This ultimately makes the drafting of orders quite difficult as well, which is the reason that the following portion of the paper drafted by Aaron Robb, PhD, takes a more systemic approach to dealing with these families. It is hoped that these factors will be helpful to the attorneys and the Judges in drafting more effective orders for these families in the future; while providing the mental health professionals with effective practice tips that they can implement in their work with these unique families.

A Systematic Approach to Reunification Therapy:

This section of the paper, written by Aaron Robb, PhD, is intended to be a guide to structuring orders for reunification plans and the various services that are often associated with those plans. Any case where there has been a break in parent-child contact, or where there has been damage to the parent-child relationship, will have unique challenges – an attempt to create a “paint by numbers” approach to drafting orders in such cases is bound to fail. Rather, we hope to offer an “a la carte menu” of options and a broad road map to navigating this process. Please do not think this will always be a linear progression; there are often unpredictable outcomes even when everyone is acting with the best of intentions. At the same time, please do not confuse expected setbacks with a derailment of the process – mistakes are not failure, and no one can expect perfection in any human endeavor.

- The Challenge for Therapists in Making Recommendations About Parent-Child Contact

The courts have acknowledged that in some circumstances the appointment of a neutral third party in complex cases may be necessary because the court is not in the best position to determine when a parent may be capable of transitioning to more standard access. The Court of Appeals has held that in these cases the court's order must be very specific as to: (1) identify the third party, (2) provide dates and other guidelines for the transition program, (3) provide dates when the standard possession order should begin, and (4) provide dates by which the third party should report to the court if these matters could not be accomplished as ordered.¹ Courts can also order specific services as conditions of parent-child contact.²

¹ In the Interest of J.S.P., 04-07-481-CV, 2008; Hale v. Hale 04-05-00314-CV, 2006

² In the Interest of D.A., a Child, 307 S.W.3d 556, 2010

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