

Family Law: Legal Gaps in Legislation and the Courts

What to Show Your Legislator

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- SCIENCE
 - VOTES
 - \$\$
- People Power

Science - bring to lawmakers

Dr. Edward Kruk - PhD and Professor of Social Work

- Kruk, E. (2018). "Parental Alienation as a Form of Emotional **Child Abuse**: The Current State of Knowledge and Directions for Future Research," *Family Science Review*, 22(4), 141-164.

https://lookaside.fbsbx.com/file/Parental-Alienation-as-a-Form-of-Emotional-Child-Abuse-Current-State-of-Knowledge-and-Future-Directions-for-Research-Edward-Kruk-Ph.D.pdf?token=AWyBG_4DMFj_Ip4tS0vtt6rzAxTUZO7qSd6vbCLNocEQEc-6pAlv-wk8q5KfVa-FR7AFGeT-HDX7TYxv2lh6Q7f2HlopJrNHcGQThZVZ3k5aDyWca08rUupj4N1Jjwd9vtADKy6KIge19OiZh7KL35

- Harman, J., Kruk, E. & Hines, D. (2018). "Parental Alienating Behaviors: An Unacknowledged Form of Family **Violence**," *Psychological Bulletin*, 144 (12), 1275-1299.

https://lookaside.fbsbx.com/file/APA%20Parental%20Alienation%20is%20a%20Form%20of%20Family%20Violence%20--%20American%20Psychological%20Association%202018%20Psychological%20Bulletin.pdf?token=AWyTFfs8R3ZtuXM6Ur21c_DbZ3sWhSxanCnnAm2hfCT9_LnmYUWcVzxR8uvZYRHNg49yQyzoNR2dwiTuqRILapIWjf52ScCKbD2C1XYeqpUY5AERSbW8iMGAOIVepGmoKW6bREIGIJ_GQqRorO6p0Re8

- von Boch-Galhau, W. (2018). "Parental Alienation (Syndrome) - A serious form of **psychological child abuse**," *Mental Health and Family Medicine*, 13, 725-739.

Child Abuse and Domestic Violence

- comprehensive literature relating to the behaviors of alienating parents, and the impact on children and target parents.
- measured by current public health and legal definitions of **child abuse and family violence**, the articles provide **an index** of parental alienating behaviors (a classification of the abusive behaviors of perpetrators) and a categorization of parental alienation **effects on victim children** and target parents.
- implications for policy and practice in both the **legal** and mental health fields are discussed, including preventive and treatment strategies.- Kruk

Child Abuse and Domestic Violence

“For **violence and abuse** to occur, two conditions must be met:

1. there must be a significant human injury; and,
2. it must be the result of human action.

Parental alienation fits that definition in relation to both child and partner **abuse.**” - Kruk

Domestic Violence Laws and Child Welfare Laws

Rosenstock: Domestic Violence Law and Child Abuse Laws must be UPDATED, according to the SCIENCE.

“**Custody** and **legal possession** of a child are fertile ground for abusive [parents](#) to act at will against the target parent, and witnessing such acts of **violence** by children constitute a **serious form** of emotional child **abuse.**” - Dr. Kruk. Emphasis added.

Dr. Craig Childress, Clinical Psychologist

Domestic Violence via Child Abuse

“The professional term for domestic violence is Intimate Partner Violence (IPV). The reason you're called ‘targeted parents’ is because you are being ‘targeted’ for intimate partner emotional **abuse; emotional violence**. Your ex- is using the child as a **weapon** of revenge and retaliation against you for the divorce.” - Dr. Childress. Emphasis added.



The screenshot shows a web browser displaying the CDC's "Violence Prevention" page. At the top, the CDC logo and name are visible, along with a search bar and an "A-Z Index" link. The page title is "Violence Prevention". Below the title, there is a breadcrumb trail: "CDC > Injury Center > Violence Prevention > Data Sources". A navigation menu on the left lists various topics: "Violence Prevention", "A Public Health Issue", "Child Abuse & Neglect", "Elder Abuse", "Intimate Partner Violence", "Sexual Violence", "Suicide", and "Youth Violence". The main content area features a large banner for "The National Intimate Partner and Sexual Violence Survey (NISVS)". The banner includes the NISVS logo, which depicts stylized figures of a man and a woman in front of a city skyline, and the text "The National Intimate Partner and Sexual Violence Survey (NISVS) with the National Child Abuse and Neglect Study". Below the banner, there is a section titled "Data Sources" with a link to "The National Intimate Partner and Sexual Violence Survey (NISVS)" and a link to "NISVS 2015 Data Brief". At the bottom of the page, a short paragraph describes the NISVS as an ongoing survey that collects current and comprehensive national- and state-level data on intimate partner violence, sexual violence, and stalking victimization in the United States.

Dr. Craig Childress and Custody and Equal Custody

“Separating children from parents is never a good thing, we need to fix things in parent-child relationships, not sever them.

If parenting practices are not dangerous to the child, then there is no legal justification for separating children from parents. Courts should not be in the role of evaluating which parents "deserve" to be parents.

Any restriction on parent-child time that restricts parenting below the every-other-weekend schedule would need justification for restricting a parent's access to and involvement with the child and would involve child protection concerns.

Magistrates and judges should not be separating children from parents except in cases of child abuse. Separating children from parents is **never a good thing**.

If there is conflict, we fix it. That's a **therapy** issue, not a **legal** issue.

I can't think of a more savage emotional abuse of the ex-spouse than taking their children away from them.

This is an IPV pathology, and all mental health professionals working with **court-involved** complex family conflict need to begin assessing for possible IPV pathology in the family, and documenting the outcome of their assessments in the patient's chart.” Emphasis Added.

Kruk and Childress on Parent Alienation

Dr. Kruk describes Parent Alienation as:

- 1) "a child's reluctance or refusal to have a relationship with a parent,
- 2) for illogical, untrue or exaggerated reasons,
- 3) as a result of one parent engaging in the long-term use of a variety of aggressive behaviors that,
- 4) harm, damage and destroy the relationship between a child and the other parent.
- 5) The target parent is demonized and undermined as a parent worthy of the child's love and attention. "

Dr. Childress's definition is similar and uses constructs **fundamental to professional mental health competency:**

1) a **cross-generational coalition** resulting in 2) a child's **emotional cutoff** of a parent, for which multiple DSM-5 diagnoses are required: 309.4 Adjustment Disorder with mixed disturbance of emotions and conduct, V61.20 Parent-Child Relational Problem, V61.29 Child Affected by Parental Relationship Distress, V995.51 **Child Psychological Abuse, Confirmed**. See Bowlby, Minuchin, Beck, van der Kolk, Kernberg, Bowen, Millon.

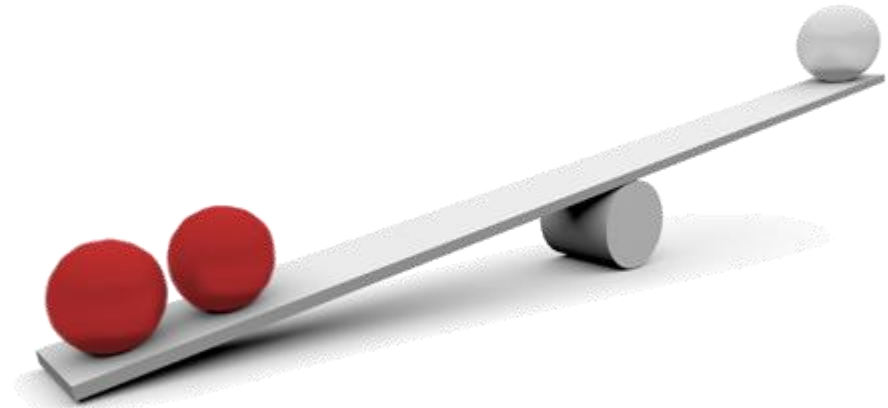
NO CUSTODY FOR CHILD ABUSERS. Supervised visitation instead.

Custody, Uneven Parenting Time and Alienation

The amount of parenting time that has been allocated or court ordered to the TP can also be used as a liability by the AP. For example, if a court's temporary order assigns only alternating weekends of parenting time to a TP, APs often use the time period between the temporary and final orders (which can be months or years) as "proof" that they should be the primary custodial parent (Harman & Biringen, 2016; Kruk 1993). This strategy is even encouraged by lawyers to obtain full custody for their clients, because many American and Canadian judges base final parenting orders on what the "normal" distribution of parenting time was prior to the final hearing. Creating an extended temporary order period with imbalanced parenting responsibility provides the AP with power to exploit the TP's limited parenting time in their favor (Kruk, 2011).

Similarly, the AP will also exploit unequal parenting plans in order to obtain and retain sole decision-making regarding the children. For example, the AP will claim that the TP does not "know" the children as well as they do because the TP only visits them twice a month. Therefore, the AP argues to the court that they should be making all decisions because they know their children best. The AP's strategy is initially a power play to obtain full control over the children and strip all parental decision-making from the TP. Once this control is obtained, it is further exploited by the AP to minimize the TP's access to and information about the children (e.g., not providing full medical information to them, telling school personnel to not allow the TP to visit the children at school) and to harass the TP (Harman & Biringen, 2018). For

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Child Abuse BY the Legal System: **Custody**

Parental alienation as a form of child abuse is not only the result of the individual actions of a parent. It also stems from social, legal, political, and economic policies (Giancarlo & Rottman, 2015). There is strong association between legal child **custody determination processes** and emergence of parental alienation, since parental alienation flourishes in situations where one parent has **exclusive** care and control of children after parental separation (Saini, Johnston, Fidler, & Bala, 2016), and where **primary residence** of children is often granted to parents with **serious psychological problems** who make the stronger case in the adversarial arena (Kruk, 2013; McMurray & Blackmore, 1992).

Sole Custody Encourages Child Abuse in Alienating Situations

Legal systems that remove a parent from a child's life by means of **sole custody** or primary residence orders are not only contributing to parental alienation; they may also be **engaging in** a form of alienation (ibid.). Parental alienation thrives in an **adversarial** “winner-take-all” legal system where parents must denigrate the other parents as much as possible to prove they are the superior parents and more worthy of receiving **sole custody** or primary caregiver status. Parents seek to win their cases by disparaging the other parent as a PARENTAL ALIENATION

154 Family Science Review, Volume 22, Issue 4, 2018 © 2018 Family Science Association. All rights reserved. parent, in effect engaging in alienating behaviors. **The system thereby encourages and produces alienating behavior** (Kruk, 2013; Giancarlo & Rottman, 2015).

Sole Custody Can Encourage Child Abuse

Given the social science consensus on the reality of parental alienation (Warshak, 2015a; Harman & Biringen, 2016), the need for research on the effectiveness of different approaches to intervention is urgent. This includes research on the four pillars of parental alienation intervention: (a) addressing parental alienation by means of a **child protection response** (the harm reduction pillar); (b) effectiveness of family law reform in the direction of **shared parenting as preventive of parental alienation** (the prevention pillar); (c) treatment and reunification programs, which are rapidly being developed in response to increased professional recognition of parental alienation and its effects (the treatment pillar), and (c) the enforcement pillar, different approaches to dealing with parental alienation as a **breach of the law**

Improvements in Law Language

Dr. Childress has suggested legislative improvements based on his knowledge.

He proposes **clarification of mental harm** to include alienating conduct; **mandatory reporting** of the abusive conduct by the mental health and legal professionals involved; and mental health professionals' **training** to ensure knowledge of the relevant pathologies.

Childress Legislation Proposal

15-01661-18 20181724__ Page 1 of 2 CODING: Words stricken are deletions; words underlined are additions. 1 A bill to be entitled 2 An act relating to child psychological abuse; amending 3 s. 39.01, F.S.; expanding the definition of the term 4 “harm” to include the **infliction of certain mental 5 injury on a child**; amending s. 39.201, F.S.; revising 6 a provision relating to mandatory reporting 7 requirements for child abuse, abandonment, or neglect 8 to include **child psychological abuse**; requiring the 9 Board of Psychology within the Department of Health to 10 revise the **continuing education requirements** for 11 renewal of a license to practice psychology to include 12 child psychological abuse; providing an effective 13 date. 14 15 Be It Enacted by the Legislature of the State of Florida: 16 17 Section 1. Paragraph (m) is added to subsection (30) of 18 section 39.01, Florida Statutes, to read: 19 39.01 Definitions.—When used in this chapter, unless the 20 context otherwise requires: 21 (30) “Harm” to a child’s health or welfare can occur when 22 any person: 23 (m) Inflicts mental injury, as defined in subsection (43), 24 on a child through the use of **manipulation or psychological 25 abuse, including, but not limited to, parental alienation, which 26 creates a significant developmental pathology, personality 27 disorder pathology, or delusional-psychiatric pathology**, as 28 diagnosed by a mental health professional licensed under chapter 29 490 or chapter 491. Florida Senate - 2018 SB 1724 15-01661-18 20181724__ Page 2 of 2 CODING: Words stricken are deletions; words underlined are additions. 30 Section 2. Paragraph (a) of subsection (1) of section 31 39.201, Florida Statutes, is amended to read: 32 39.201 Mandatory reports of child abuse, abandonment, or 33 neglect; mandatory reports of death; central abuse hotline.— 34 (1)(a) Any person who knows, or has reasonable cause to 35 suspect, that a child is **abused, abandoned, or neglected** by a 36 parent, legal custodian, caregiver, or other person responsible 37 for the child’s welfare, as defined in this chapter, or that a 38 child is in need of supervision and care and has no parent, 39 legal custodian, or responsible adult relative immediately known 40 and available to provide supervision and care shall report such 41 knowledge or suspicion to the department in the manner 42 prescribed in subsection (2). For purposes of the mandatory 43 reporting requirements established under this section, child 44 abuse **includes any harm or mental injury as those terms are 45 defined** in s. 39.01. 46 Section 3. The Board of Psychology within the Department of 47 Health shall revise the requirements for renewal of a license to 48 practice psychology, pursuant to s. 490.007, Florida Statutes, 49 to require continuing education regarding **child psychological 50 abuse, including, but not limited to, abuse through the use of 51 manipulation or parental alienation**. 52 Section 4. This act shall take effect July 1, 2018.

VOTES, \$\$, People Power

GET OFF FACEBOOK .



Get TOGETHER in the real world.

Build Coalitions with Other Groups:

Churches, Synagogues, Family-Oriented Organizations: **TopRoots and GrassRoots**

Meet weekly and monthly with Affected Parents.

But collect their **voting information** and LEVERAGE it towards the legislators.

Accumulate the votes in key committee's constituencies. **Leverage** the organizations with whom you built the coalitions.

Why?

Legislators need the votes to stay in power. Get enough votes, they will vote your way.

Conversely:

Legislators do not count Likes on Facebook. They count VOTES.

Don't get enough VOTES, they don't need to care about you.

Also,

Collect \$\$\$.

And collect **people power**.

What does that mean?

Political campaigns need people! To make calls, to canvas neighborhoods. To lick stamps and envelopes. To FUNDRAISE. Get your people on those volunteer tasks!!!! Your legislators will answer your calls faster!

That means:

- Organize, coordinate, stop bickering, fundraise, build blocks of voters in key districts, enlist other organizations in the key DISTRICT. Support campaigns with people power. And bring the science.
- Make the issue really about child abuse and domestic violence. No one wants to be on the wrong side of child abuse or domestic violence.
- Find more **mom** victims. And more **mom** champions of equal parenting. Make them the face of the movement and bring them to the meetings.

In America - RIGHTS

Rights are not GIVEN in America. They are FOUGHT FOR. You are going to have to fight to get your rights into the courts (state courts and legislatures).

- colonial rights
- Black rights
- gay rights
- women's rights
- disabled rights
- veterans
- special education
- cannabis
- #MeToo
- Equal Custody, Family Rights

