

Australian Law Reform Commission

Review of the Family Law System

Response to Discussion Paper

I am appalled and disappointed by this Discussion Paper.

It should have been obvious what would happen when I looked at the Advisory Panel for this review. This is who the ALRC sees as the “stakeholders” of Family Law. Not the parents or children, but the groups who make money out of the perpetual conflict model of family law. The more conflict, and the longer these groups can claim it goes on, the more services they can invent and the more money they will make.

The last thing the FLRC or its Advisory Panel of Stakeholders want are models that prevent conflict or allow separating parents to move on with their lives free of compulsory ongoing conflict services.

I am too angry to even bother with much of a response – as I know it will be ignored. I will save my efforts for the political phase. Hopefully there will be a Senate Inquiry that will genuinely consult those affected by the Family Law System.

Treatment of Fathers

I did a search on the word “father” in the document. The few mentions were all associated with the usual deficit model of fathers – and the need to provide education or engagement services for them. That is stakeholders making money of fathers.

No mention of the special problems that single father households and families face, particularly post-divorce’ – for example unlawful blocking of access to child care places so they can work. No mention of the fact when you consult the appropriate authorities who are supposed to enforce compliance of services to all families they don’t even respond if it is a single father complaining.

Post-Divorce Compliance with Orders (proposal 6-9)

Currently it is possible for excellent fathers (i.e. clean police check, working with children check, and do mentoring work at schools with other children) who have 50:50 shared care orders to never see their own children after the court orders take effect.

To most people that would indicate System failure. But the FLRC team doesn’t see it as a problem. These aren’t their children after all.

Instead of putting teeth and a rapid response into the contravention and compliance processes, the FLRC looks like abandoning them – and replacing them with drawn out, costly and ultimately ineffective parenting support service.

The LFA submission said that in Denmark they get a much better response by just issuing on-the-spot fines (about \$400) for non-compliance. However, the problem with that approach is the FLRC Advisory Panel will not make any money – so they don't want a cheap rapid system that works.

The FLRC discussion paper says –

The service is not intended or appropriate for cases where there has been a history of coercive controlling violence.

However, the paper fails to acknowledge that a history of blocking a parent access to their own children is also a method of coercive control and humiliation that is every bit as malicious and damaging as physical or sexual violence.

Therefore this planned “service” is not appropriate in those situations either.

Parallel Parenting

Here is are articles on why a more separated type of Parallel Parenting work in some situations. Particularly when the mother just cannot accept the father being involved with his children.

There is no mention of this parallel parenting of model in FLRC document - mainly because stakeholders don't make as much money from this. Also abusive ex-wives are prevented from being in control.

What's the Difference Between Co-parenting and Parallel Parenting?

How you parent with your ex-spouse can make a big impact on your child's life. Learn the difference between co-parenting and parallel parenting.

By Terry Gaspard Updated: July 19, 2018

<https://www.divorcemag.com/blog/difference-between-co-parenting-and-parallel-parenting/>

What's the Difference Between Co-parenting and Parallel Parenting?

Over the last few decades, research by child development experts has demonstrated numerous benefits to children when their living arrangements enable support from both parents. One reason is that parents who co-parent tend to experience lower conflict than those who have sole custody arrangements. Studies show that conflict is what creates the most pain and anguish for children after their parents split, and that keeping parental disagreements to a minimum is a key aspect of helping kids become resilient.

However, very few experts discuss the drawbacks of co-parenting when parents don't get along or have high-conflict relationships. According to parenting expert, Dr. Edward Kruk, children of divorce benefit from strong and healthy relationships with both parents and they need to be shielded from their parents' conflicts. He writes,

“Some parents, however, in an effort to bolster their parental identity, create an expectation that children choose sides. In more extreme situations, they foster the child’s rejection of the other parent. In the most extreme cases, children are manipulated by one parent to hate the other, despite children’s innate desire to love and be loved by both parents.”

According to author Virginia Gilbert, MFT, co-parenting is an option only when both ex-spouses support the other parent and respect their right to have a good relationship with the children. She writes, “But some people never get to acceptance. They become, essentially, addicted to anger. They convince themselves that the other parent is incompetent, mentally ill, or dangerous. They transmit this conviction directly or indirectly not only to the children, but also to school staff, mental health professionals and anyone else who will listen.”

Many experts recommend parallel parenting as an option to parents who are adversarial. But what exactly are the differences between co-parenting and parallel parenting? In order to answer that question, I will illustrate key aspects of each of these approaches to post-divorce parenting.

What Is Co-Parenting?

Co-parenting describes a parenting situation where the parents are not in a marriage, cohabitation, or romantic relationship with one another. In the United States, co-parenting often describes a parenting situation in which two separated or divorced parents take care of their children.

The term ‘co-parent’ may also be used to describe a situation where, following divorce or separation, the child’s parents seek to maintain equal or equivalent responsibility for the child’s upbringing. In principle, it states that a child has always and in any case the right to maintain a stable relationship with both parents, even if they are separated or divorced, unless there is a recognized need to separate him/her from one or both parents.

Co-parenting, at its best, is a wonderful opportunity for children of divorce to have close to equal access to both parents – to feel it is okay to love both of their parents. Dr. Joan Kelly, a renowned psychologist reminds us that the outcomes for children of divorce improve when they have positive bonds with both parents. These include better psychological and behavioral adjustment, and enhanced academic performance.

Keep in mind that when you co-parent, communicating with your former spouse is going to be necessary for the length of your children’s childhood into young adulthood. This may include special events, graduations – and perhaps even weddings. It’s important to keep clear boundaries so that your children wouldn’t harbor fantasies that you will reconcile. For the most part, this means less personal sharing and focusing on exchanging information and cooperation so you can make good decisions about your children.

Let’s face it, communication with your ex is key to successful co-parenting. It’s a good idea to sit down with your ex and come up with a few strategies to encourage

your children to cooperate with their “parenting time” schedule. For instance, you may decide to make different arrangements for drop off and pick up. Most importantly, it’s crucial that your children see that you and your former spouse are working together for their well-being.

Next, you may need to examine the “parenting time” schedule to make sure that it’s working for your children. For example, the younger child will adjust better if they are not transitioning between houses too frequently and adolescents usually want more control over their schedule due to school, activities, and time with friends. They may develop resentment toward you if they can’t make some decisions about their schedule.

Loyalty Conflicts

Over the years, I’ve interviewed many children of divorce who describe the pressure of loyalty conflicts. Lauren, a lively 13-year-old speaks candidly about her struggle to cope with divided loyalties since age nine. She recalls, “It was really hard to interact with both of my parents after their divorce. When they were saying nasty things about each other, I just never wanted to take sides.”

In fact, loyalty conflicts can make some kids feel as if they don’t want to spend time with both parents. Lauren continues, “I felt like I had to keep my mom’s new boyfriend a secret because my dad didn’t have a girlfriend for awhile. When my dad asked me if my mom had a boyfriend, I didn’t know how to deal with it so I said I wasn’t sure.” Lauren’s story reminds us that children should never be used as a messenger between their parents post-divorce. Let them enjoy their childhood and think about how you want them to remember you when they grow up.

What Is Parallel Parenting?

While co-parenting is usually the best decision for children, it takes two special parents to navigate this arrangement over time. Interacting with each other at drop-offs, making shared decisions, or even speaking to an ex who you’d rather forget can be a challenge.

What is a good solution for parents who want to attempt to co-parent when they have high conflict? According to Dr. Kruk, “Parallel parenting is an arrangement in which divorced parents are able to co-parent by means of disengaging from each other, and having limited direct contact, in situations where they have demonstrated that they are unable to communicate with each other in a respectful manner.”

Here are five guidelines to help with parallel parenting:

All communication must be non-personal and business-like in nature and relate to information relevant to your children’s well-being.

Parents never use their children as messengers to communicate back and forth.

No changes to the schedule are made without written agreement.

No personal information is shared with the other parent in any form.

To minimize conflict, schedules are shared via a calendar or in writing.

In other words, parallel parenting allows parents to remain disengaged with one another while they remain close to their children. For instance, they remain committed to making responsible decisions (medical, education, etc) but decide on the logistics of day-to-day parenting separately. Parallel parenting allows the dust to settle in high conflict situations and may lay the groundwork for co-parenting if parents can put aside their hostilities and grievances.

Ultimately, both parallel parenting and co-parenting can benefit kids if parents consider what's in their children's best interests.

Also another example this time written in California (note there is no mention of the program the FLRC paper lauds).

Parallel Parenting: Is It the Solution When Co-Parenting Isn't Possible?

Using Parallel Parenting as an Alternative to Co-Parenting

By B. Robert Farzad Updated: November 23, 2017

Parallel Parenting: Is It the Solution When Co-Parenting Isn't Possible?

In an ideal divorce, two good parents come to an agreement and those two parents then co-parent their children, despite the separation. Let us set aside for a moment and talk about the other scenario—the high-conflict custody cases. What happens when two parents cannot co-parent? They cannot because they refuse to do so or they are emotionally ill-equipped. There are two options: give up and tell the parents to figure out a co-parenting arrangement or find an alternative to co-parenting in parallel parenting.

As a California divorce and family law lawyer, I see plenty of child custody disputes. Some resolve amicably and others go through evidentiary hearings and trial where the person in the black robe makes the decisions. Every California child custody case begins with the same question—what is in the children's best interest? That is the question asked on legal custody, physical custody, and parenting time.

What Is Parallel Parenting?

Parallel parenting is either a stopgap or long-term solution when co-parenting is not reasonably possible and high-conflict parenting is undesirable. High-conflict custody

cases beg for a solution that takes into account the children's mental health when two parents continue to be hostile to each other and refuse to compromise.

Parallel parenting recognizes that traditional co-parenting and communication will not work for this specific situation. The parents detach from each other and do not communicate about most day-to-day custodial decisions while the children are under either parent's care. Instead, each parent has control over their respective parenting responsibilities during said parenting time. Often, absent an emergency or other serious issue, there is little communication between the parents.

Does Parallel Parenting Mean No Contact at All?

Parallel parenting minimizes contact, but does not eliminate it. One parent may keep the other posted on developments in a simple, unemotional way such as one of the several web- or app-based programs and message boards that are available and foster such communication. Yes, parents can also use email or text message to communicate about their child, but our experience in California is that email and text messages are rarely effective means to communicate.

As an example, if Parent A enrolls a child in an extracurricular activity and it is Parent A's right to do so under Parent A's custodial time, Parent A will simply inform Parent B of this enrollment. There is no discussion about the activity's merits or what should or should not occur. So long as it does not interfere with Parent B's parenting time or requires Parent B to pay for all or part of it, there is nothing else to discuss. This is one example of contact through parallel parenting, but without co-parenting.

What Is Parallel Parenting's Ultimate Goal?

From our perspective, any parenting plan's goal should, in one respect, be to avoid conflict to which the children may be exposed and therefore act consistent with the children's best interest. That is what parallel parenting endeavors to do.

Conflict between parents may be unavoidable. But the children do not need to see, hear, or feel it. We want children severed from conflict so each parent can raise them in a loving and nurturing environment. Of course, parents will have different parenting styles; that is not the issue. If a parent endangers the children through physical or emotional abuse or otherwise neglects their care, a court should make orders to protect the children.

Parallel parenting on the other hand assumes there are two parents who are capable of raising the children properly but are incapable of doing so through co-parenting. Therefore, the goal is clear—let each parent raise the children without parental conflict.

Is Parallel Parenting Co-Parenting's Doom?

There is no doom nor gloom. Parallel parenting is not necessarily the end, sometimes it is the beginning.

Breakups can be emotional whether the parents are married or not. But like all emotion, time heals and parallel parenting can sometimes be a good starting point for parents who are unable to co-parent until one day they are able to do so. "Trust" filters the lens with which parents see each other. Parents who do not trust each other can rarely or effectively co-parent. But parents who see there is life after separation sometimes, eventually realize their personal differences do not have to impact their children's well-being. As trust rebuilds, there is a greater hope for co-parenting.

Everything I wrote here is from the perspective of California law and no other State. There is some disagreement among our legal community about parallel parenting's merit and, if it must be implemented, to what extent it should be. Like any other plan, it can be subtle, extreme or something in the middle. Attorneys who seek to draft parallel parenting plans should do so with care.

End of articles

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