

THE IMPACT OF DIVORCE & SEPARATION ON SUPERVISED VISITATION

Introduction

Courts sometimes order supervised visitation in cases in which the parents are separating or divorcing, but it is not the separation or divorce itself that causes the need for supervision. Instead, it is an allegation or evidence that the contact between one parent and the child needs to be supervised because of a parent's misconduct, illegal behavior, or some other issue that interferes with his or her ability to raise a child. Parental behavior – or alleged behavior – that may result in supervised visitation in separation and divorce cases includes, but is not limited to the following: parental substance abuse, child abuse or neglect, domestic violence, long-term parental absence, parental sabotage of the other parent's relationship with the child, parental mental illness or disability, and chronic conflicts over the children and custody/visitation arrangements that threaten the best interest of the children.

The underlying reason for the court referral to supervised visitation creates *additional* trauma for the family, but it is crucial to remember that divorce and separation *alone* can cause trauma to both parents and children. The impact of divorce and separation on a child can be significant, affecting a child's psychological, social, and behavioral development.

Overview

This chapter provides an overview of the losses that children suffer when their parents separate and/or divorce, and presents visitation staff with common responses to divorce/separation that children may exhibit during visits. Research on children's and parents' adjustment to divorce is also presented in this chapter, along with a summary of Florida's laws governing parental responsibility. Finally, information is provided to assist visitation staff in preventing further trauma to the child during visits by identifying, deterring, and intervening in parental behavior that can be harmful to the child's physical or emotional well being.

Objectives

Upon completion of this chapter, a visit monitor will be able to:

1. Discuss the prevalence of divorce in the U.S.;
2. Describe the impact of divorce on children;
3. Discuss the needs of children at the six major developmental stages of childhood;

4. Understand how divorce/separation may affect children's behavior at visits;
5. Describe the impact of divorce on adults;
6. Describe Florida's law relating to divorce and custody and explain how judicial decisions on parental responsibility can impact visitation; and
7. Identify strategies to facilitate visits between a child and parent in divorce/separation cases.

Snapshots

- In the U.S. approximately 51% of marriages end in divorce.
- In the U.S. approximately 45% of children witnessed their parents go through a divorce.
- Eighty-eight percent of divorcing spouses with children agree on custody arrangements without a ruling from the court.
- About 27% to 50% of all children will spend some or all of their time in a single parent household before the age of 18.
- Mothers serve as the primary residential parent in an estimated 86% of custody cases.
- In 2005, 59% of single women with children under 6-years-old were living in poverty.
- In 1999 there were approximately 300,960 children in the U.S. abducted by a parent.

The Impact of Separation & Divorce on Children

Children's lives are affected when their parents separate or divorce. According to researchers, children with divorced parents, as a group, fare more poorly than children with continuously married parents. Children of divorce and separation often have the following characteristics:

- Lower scholastic success;
- Poorer classroom behavior;
- More emotional and behavior problems;
- Lower self-esteem; and
- Problems with interpersonal relationships.

Studies suggest that divorce exacerbates behavioral problems in boys, because they are already more prone to behavior problems than girls. Girls, however, also experience a significant impact from their parents' divorce.

What Children Lose

The psychological, environmental, and social impact of divorce on children is fraught with change and loss. By the time children arrive at a visitation center, they have had to face many if not all of the following changes because of the divorce or separation:

- Loss of the family as they have known it;
- Loss of one parent from the household, and distinct changes in the amount of time spent with both parents;
- Loss of familiar routine at home and school;
- Loss of financial resources, which may include poverty in many cases;
- Loss of the attention and emotional support of one or both parents if they are so engaged with their own conflicts that they are not available to the child in the same way; and/or
- Loss of their home, their neighborhood and sometimes their school if the custodial parent relocates. This includes loss of friends, who become more important to children as they become adolescents.

Case Example & Discussion Questions



Read the case example below and then answer the questions about the case.

Joshua Miller, age six, is visiting with his father for the first time at the Sunshine Visitation Center. When he walks into the lobby with his mother, he clings to her and whines. He cries briefly when she leaves. The visit monitor takes his hand and leads him in to the visit room, decorated with bright murals and filled with toys. Joshua smiles when he sees his father, and runs to him. Then he shouts, “Daddy, I want to go home right now, and I want you to come with me.” He stamps his feet and starts to cry.

Discussion Questions:

1. What emotions is Joshua experiencing?
2. How might his father respond?
3. What might a visit monitor do to help facilitate this visit?

Grieving the Loss of the Intact Family

The grief that children and parents feel over separation and divorce is a process, not a time-limited event. Dr. Elisabeth Kubler-Ross, a Swiss psychiatrist, identified five stages in the grieving process. The stages are not necessarily sequential or linear, but are highly individual. People may move through the stages of denial, anger, bargaining, depression, and acceptance in any order, or may skip one stage and repeat others. In Table 6.1, the five stages are described.

Stage	Thought/Realization	Feeling/Attitude
Denial	“No, it’s not true.”	“This isn’t happening to me.”
Anger	“This should not be happening to me.”	“Why is this happening to me.”
Bargaining	“Maybe I can change things if I do better.”	Hope, striving, turmoil
Depression	“I do not know how to go on.”	Sadness, depression, shame
Acceptance	“I can go on.”	Life is still worth living.

Developmental Needs of Children & Responses to Separation or Divorce

Children have different needs at different stages of development. Children’s overarching needs during the respective stages of development are the following:

Infancy – To learn basic trust.

Toddlers – To explore the environment, build up self-confidence, develop symbols, and socialize.

Preschoolers – To develop self-sufficiency and mastery, to become socialized, to explore the environment.

Middle childhood – To develop emotionally, develop concrete operational thought, become more independent, develop self-worth, and associate with friends.

Early Adolescents – To accept one’s physical self, attain mature relationships, attain emotional independence from caregivers, and attain socially desirable behavior.

Late Adolescents – To achieve emotional independence from caregivers, prepare for an economic career, prepare for significant intimate relationships, achieve masculine or feminine sex roles.

Table 6.2 lists children’s specific needs and their responses to separation or divorce. Behavior observed during visits is also described.

Table 6.2
Developmental Needs of Children & Responses to Separation or Divorce

Needs	Responses to Separation or Divorce	Behavior that may be Observed During Visits
<p>Infants</p> <p>Connection and attachment to caregiver</p> <p>Safe environment</p> <p>Consistent eating and sleeping pattern</p> <p>Frequent time with parents, length of time can be shorter</p>	<p>If child is less than 6 months, divorce will most likely not affect the child if his/her needs are still met</p> <p>Infants over 6 months, may experience separation anxiety if they have formed a secure attachment with their caregivers and may fear abandonment</p>	<p>Developmentally appropriate behavior</p> <p>Becomes upset easily</p> <p>Ill-tempered</p> <p>Cries easily</p> <p>Demonstrates insecure attachment</p> <p>Emotionally withdrawn or shy</p>
<p>Toddler (1-3 years old)</p> <p>A safe environment for exploration</p> <p>Parent attentive to needs</p> <p>Verbal explanations appropriate for age</p> <p>Caregiver reassurance</p> <p>A patient caregiver</p> <p>Consistent daily routine</p>	<p>Toddler may fear separation</p> <p>Toddler may fear abandonment</p>	<p>Becomes upset easily/ ill-tempered</p> <p>Cries/whines</p> <p>Physically hangs onto parent</p> <p>Emotionally withdrawn</p> <p>Throws temper tantrums</p> <p>Shows aggressive behavior (hitting, biting, kicking, etc.)</p>
<p>Preschoolers (3-5 years old)</p> <p>Protective parent</p> <p>Freedom to explore</p> <p>Defined roles for parent</p> <p>Contact with same-sex parent</p> <p>Reassurance of love and support</p> <p>Contact with other children for socialization and play</p> <p>To show autonomy and mastery</p>	<p>Blames self for parents' problems</p> <p>Feels guilty or ashamed</p> <p>Fears punishment/rejection</p> <p>Feels frightened or confused</p> <p>Feels jealous</p> <p>Has fantasies of parental reconciliation</p> <p>May regress to an earlier age</p>	<p>Has difficulty expressing feelings</p> <p>Acts younger than true age</p> <p>May have toileting accidents</p> <p>Fights with siblings</p>

Table 6.2 (cont'd)
Developmental Needs of Children & Responses to Separation or Divorce

Needs	Responses to Separation or Divorce	Behavior that may be Observed During Visits
<p>School-age (5-11 years old)</p> <ul style="list-style-type: none"> To be shielded from parental conflict and negativity To be talked with and listened to Contact with both parents To be involved at school Parents to be involved at school Support from friends Develop a sense of competence 	<ul style="list-style-type: none"> Feelings of sadness/anxiety Feelings of fear/guilt Feelings of shame/low-self esteem Has fantasies of parental reconciliation Experiences loyalty conflicts Believes parents are all good or all bad Feelings of anger 	<ul style="list-style-type: none"> Unable to express feelings Gets frustrated Shows hostility towards others Acts younger than true age Acts older than true age
<p>Adolescents (12-18 years old)</p> <ul style="list-style-type: none"> Parents to be emotionally stable Low levels of parental conflict Parents to act mature Parental supervision Quality time with both parents To be treated as an individual To achieve emotional independence from caregivers and other adults To prepare for economic independence 	<ul style="list-style-type: none"> Feelings of sadness/depression Feelings of anger/disappointment Feelings of self-doubt Lacks high self-esteem Shows parental behavior Emotionally unbalanced Partakes in sexual behavior prematurely May feel relieved parents are divorced 	<ul style="list-style-type: none"> Insincere disconnection/apathy Expresses sadness, anger, shame, disgust Questions family relationships Pulls away from family

Children's Adjustment to Divorce

The following factors determine how well children adjust to divorce:

- How well parents are able to handle conflict is strongly associated with children's adjustment to the divorce.
- Children's adjustment is also strongly related to the amount and intensity of parental conflict before the divorce, with children who have witnessed high parental conflict faring worse.
- Divorce proceedings that extend over a long period of time add to children's poor adjustment to divorce.
- Parental depression and financial difficulties also lead to poor adjustment to divorce in children.
- Children that have good relationships with their parents adjust better to divorce than those that have conflicted relationships with their parents.

Parents' Adjustment to Divorce

Recent research has suggested that the following factors determine how well parents adjust to divorce:

- Parents who communicate to discuss their children, make decisions in the best interests of the children, and who are supportive of one another fare better than those who do not.
- Parents who adjust well to divorce understand they have to reconstruct their parental roles and do so in a proactive way.
- The parent who initiates the divorce usually adjusts better to the divorce because of the psychological sense of control over the situation.
- The parent who did not initiate the divorce tends to feel victimized.
- The more drawn out and conflicted the divorce proceedings the worse the parent's adjustment.

Chronic Parental Conflict

Researchers consistently note that the vast majority of couples divorce and come to agreements on custody and visitation *without* a court order. However, over 10% of divorcing couples have chronic post-separation conflict, helping make family court cases the largest and fastest growing segment of state civil court caseloads. There is considerable consensus that these cases, which consist of on-going litigation concerning the custody and care of the children, actually cause *serious harm* to the children involved. Supervised visitation programs receive referrals in these cases, and staff should understand their dynamics. These cases may include:

- Parents who initiate frequent court hearings on the subject of custody;
- Parents who consistently make the child unavailable to each other for visits;
- Parents who chronically and wrongfully accuse each other of misbehavior;

- Parents who threaten other members of the family with physical violence;
- Parents who consistently refuse to work together to decide educational and medical issues regarding their child; and/or
- Parents purposely try to turn a child against the other parent, to sabotage the child’s relationship with that parent. This sabotage might include the following behavior, which can look like a parental tug-of-war:
 - A parent promising the child rewards to turn against the other parent;
 - A parent repeatedly calling the other parent names, or speaking critically of him or her in the presence of the child;
 - A parent threatening the child with loss of love or support unless child rejects the other parent; and
 - A parent threatening the child physically or emotionally to reject the other parent.

Cautions Regarding Parental Conflict

Although visitation staff may see case referrals which involve post-separation conflict, it is essential for them to do the following:

Differentiate Domestic Violence: It is crucial for staff to understand that parental conflict is different from domestic violence and post-separation violence, which is common in domestic violence cases. Domestic violence, as explained in Chapter 5 is about the power and control of the batterer. A victim of domestic violence should not be blamed for returning to court and litigating to protect herself and her children if she is stalked or fears for her safety. In addition, if a victim moves out of the home into shelter because she fears for her safety, she should not be accused of intentionally making the children unavailable.

Avoid the term “Parental Alienation”: While a parent may accuse the other of sabotaging the child’s relationship with that parent, staff should avoid the label of Parental Alienation Syndrome, which was coined and used by Dr. Richard Gardner. Such a “syndrome” has never been recognized by the Diagnostic and Statistical Manual of the American Psychological Association, and has been discredited by many scholars.

Avoid assuming mutual blame: Although there are some couples who engage equally in prolonged and mutual contests using the children as pawns, it is far too easy for staff to assume that both parents are always to blame for the continued litigation. Staff should recognize that in some cases – especially in domestic violence and child sexual abuse cases – the non-offending parent appears to be the one who is causing the conflict simply by raising the issue. A thorough understanding of the dynamics of these crimes is essential for all supervised visitation staff, who should remember that there are *far more unreported cases* of these crimes than there are reported cases of them.

Visit monitors must focus on the parent’s behavior toward the child and intervene when that behavior is harming the child.

Avoid Diagnosing: Most supervised visitation staff in Florida are *not* mental health professionals and should not assume that they can accurately determine whether allegations are true or false. Supervised visitation

referrals contain only partial descriptions of family dynamics; thus, staff have only one piece of the puzzle of families in crisis.

Prohibit Damaging Behavior: Even though they should not diagnosis a family, visit monitors *should* intervene when a parent’s behavior is harmful or potentially harmful to the child’s physical or emotional well being. This mandate to intervene can arise from the many situations, including the following:

- Parent criticizes or blames other parent to child during visit;
- Parent criticizes or blames other parent to staff in child’s presence during visit;
- Parent scolds child for “behaving just like” other parent;
- Parent discusses particulars of court case to child or in child’s presence;
- Parent quizzes child about other parent;
- Parent uses corporal punishment;
- Parent threatens the child with physical or emotional harm;
- Parent repeatedly tells the child how he should feel about other parent;
- Parent looks to child for the emotional support, resulting in role reversal, where the child begins to “parent” the adult at visits;
- Parent tests the child’s loyalty (“If you say you’ll live with me, I’ll promise to always love you”); and,
- Parent promises the child things that can’t be delivered (“I will be home next week, and we will all be together.”)

Understanding Florida Law

Prior to divorce, both parents have equal rights of custody, care, and control of children. Upon divorce – called dissolution of marriage – Florida gives preference to the continuing contact between both parents and their children as “shared parental responsibility.” Chapter 61 of the Florida Statutes deals with children’s issues after separation and divorce. Supervised Visitation staff should know, at minimum, the following:

Shared parental responsibility describes the preferred parenting arrangement between a child and his/her parents. There are two components of shared parental responsibility:

1. **Decision-making:** In this arrangement, both parents have the same legal rights to make major decisions regarding the child’s care, such as those involving education, health, etc. However, the court may grant one parent ultimate authority to make decisions for one aspect of the child’s life or when the two parents cannot agree. This is called sole parental responsibility.
2. **Residential Responsibility:** In this arrangement, there may be a parent with whom the child primarily resides. Although the Florida Statutes use the term *residential* and *non-residential responsibility*, the terms custody, custodial and *non-custodial* are also often used throughout the state. This is the case even

though the Florida legislature expressly states that the word “custody” is not appropriate because it denotes control.

Courts award parental responsibility according to the best interest of the child, regardless of the age or sex of the child.

- a. The other parent may have secondary residential parenting (and is sometimes called the non-residential parent). He or she is the parent with whom the child resides when not with the primary residential parent.
- b. Visitation is used to describe contact, access, and timesharing with children.

Sole Parental Responsibility. The courts prefer that both parents be involved in the life of a child, if possible. In supervised visitation referrals, however, one parent may have *sole* parental responsibility for the major decisions that affect the child. Sole parental responsibility is awarded regarding issues such as educational, medical and religious decisions only in cases in which the involvement of the other parent would be detrimental to the child.

It is incumbent upon the supervised visitation program to determine the legal status of both parents prior to the first visit, because the court’s decisions regarding parental responsibility impact visitation. There are several possible combinations of court-ordered parental responsibility explored in Table 6.3.

**Table 6.3
Impact of Parental Responsibility on Visitation**

Parental Responsibility	Example of Impact at Visitation
Visiting parent has shared parental responsibility	<p>If child gets a headache during a visit, the visiting parent can advise staff to give the child appropriate medicine.</p> <p>Both parents separately may be consulted regarding the comfort and needs of the child during visits.</p>
Residential parent has sole parental responsibility over all issues.	<p>Visiting parent has no right to attend program’s child intake session with the child.</p> <p>Visiting parent has no right to make decisions about the child that contradict the parent who has sole parental responsibility.</p>
Visiting parent has shared parental responsibility over some issues, but the residential parent has sole parental responsibility over one or two issues.	<p>If the child has a disability, the parent with sole parental responsibility over health decisions is the only one who can be consulted regarding the child’s disability. The other parent cannot bring alternate medical equipment to the visit to use with the child.</p> <p>If one parent has sole parental responsibility over religious decisions, the other parent is not allowed to bring alternate religious material to the child during the visit.</p>

How the Courts Determine Parental Responsibility

According to Florida Statute §61.13(3), there are a number of factors the court may weigh in making its determination for shared responsibility. Evaluation of these factors allows the court to determine what is in the best interest of the child. The court will consider:

- Frequent and continuing contact, because
 - It is Florida's public policy to maintain continuing contact between the child(ren) and both parents and to have both parents share parental responsibilities,
 - The primary residential parent has a duty to encourage the relationship between the child and the nonresidential parent;
- Emotional ties between child and parents;
- Capacity and disposition to provide food, clothing, and medical care;
- Mental and physical health and moral fitness of parents;
- Child's physical, mental and educational status;
- Length of time the child has lived in a stable, satisfactory environment;
- Permanence of existing or proposed custodial home;
- Preference of child, if the court determines the child is old enough and sufficiently able to express an opinion based on understanding and experience;
- Evidence of domestic violence or child abuse in the home;
- Evidence that either parent has provided false information in a domestic violence proceeding; and,
- Any other relevant factor.

Evidence of domestic violence and child abuse is considered evidence of detriment to the child. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court can send cases to supervised visitation to protect the child or victim.



More information about this topic is included in the Administrative Supplement.

Restrictions on Visitation

A court may restrict or deny visitation when it is necessary to protect the child(ren). Child abuse and domestic violence are considered in determining shared parental responsibility and/or visitation. Even if the parent's rights are limited by the court, the parent may still be responsible for financially supporting the child.

Staff should check the court records to determine what judicial decisions were made regarding parental responsibility in each case. Additionally, a thorough and on-going assessment should be conducted to determine what other information is necessary to keep the children safe.

Facilitation Strategies in Divorce/Separation Cases

There are many ways for visit monitors to facilitate visits in divorce/separation cases. Below are suggestions to assist in facilitating visits:

1. Review the case file to attempt to determine the depth of the relationship between the visiting parent and the child. For example, if there has been long term parental absence, staff should be on notice that a great deal of modeling and assistance may be necessary for at least the first few visits while the parent and child develop a stronger bond.
2. Remember that the child may be very aware of each parent's hostile feelings toward the other and may feel that each parent must be defended. Thus, staff must remain respectful to both parents.
3. If one of the parents has attempted to sabotage the child's relationship with the other parent, the child may be openly antagonistic, disrespectful, or angry with the parent who has been criticized. Staff should be prepared to model respectful behavior toward the parent. At a minimum, staff should insist on calling the parents Mr. or Mrs. or Ms. in the presence of the child to show respect. Consider also using praise generously toward the criticized parent so that the child sees that staff hold the parent in high regard, despite the words and actions of the other parent.
4. Ask the custodial parent if a young child has a special comforting toy or blanket (or pacifier) that might make him/her feel more secure during the visit. Be sure that the child does not leave the toy at the program when he/she leaves.
5. Inform both parents at intake that visits are not to be used to speak critically of the other parent. The most important strategies are those used at intake to *prevent* damaging behavior at visits. If a parent needs to be reminded of the requirement for respect and appropriate references to the other parent, staff should consider more than redirection: an additional intake "refresher course" may be necessary.
6. Remember that the child has been in a great deal of transition during the separation/divorce. Younger children may feel more comfortable having the same visit room and the same toys for the first few visits. If the program rotates visit rooms, be sure to allow the child to see all the "special" elements of the new room.

7. If possible, have some idea of a parent's literacy level before suggesting books the parent and child can read together.
8. Offer at least two activities at the beginning of the visit so that the parent and child can choose an activity together. This helps make the parent and child a "team."
9. If a parent is angry or frustrated with the child's misbehavior, suggest ways to calm down as alternatives to hitting or yelling. For example, suggest that the parent may want to count to ten, or assist the parent in redirecting the child's attention.
10. When parents have multiple, active children visiting at one time, the program may need to have more than one monitor to assist with the children (especially for toileting). However, the parent should be encouraged to plan the visit ahead of time to include as many of the children as possible in activities.
11. If new spouses/partners are part of the visit, the program should conduct intake with these persons also, to determine whether a relationship already exists with the child.
12. If a visit ends in mid-activity (e.g., if a game is not yet finished), make a note about this in the file and ask the parent and child at the beginning of the next visit if they want to continue that same activity or move on to another one.

Case Example & Discussion Questions



Read the case example below and then answer the questions about the case.

Carol and Deborah Phillips were married for eight years and have two children, Brittany, age five and Mark, age seven. Mrs. Phillips filed for divorce two years ago, after discovering Mr. Phillip's infidelity, and requested primary residency of the two children. Mr. Phillips alleged that Deborah was an alcoholic and not suitable for primary residency. The divorce was granted last month, after extensive pleadings over issues including Mr. Phillip's alleged substance abuse, watching pornography in the presence of the children, and his refusal to return the children to Mrs. Phillip's apartment on time. The court found evidence that Mrs. Phillips denied Mr. Phillips visitation by scheduling events during his parenting time, making up false excuses such as automobile problems, and claiming that the children were sick. Over two years, the parties scheduled nine court hearings for temporary relief, emergency relief, and clarification of court orders, modifications, and contempt of court. The court ordered supervised visitation "to ensure that Mr. Phillips could maintain contact with his children until a court-ordered therapist recommended non-supervised visits." During the first visit, Brittany told the monitor "Mom says we don't have to visit Dad if we don't want to." Mark asked Mr. Phillips why he "keeps bothering us and making us come here." Mr. Phillips answered, "Don't listen to that b*&%#."

Discussion Questions:

1. What steps might the program director take *before visits begin* to lessen hostility during visits?
2. How should staff re-direct Mr. Phillips or his children?
3. Should staff say anything to Mrs. Phillips regarding the children's remarks?

QUIZ



1. Name four losses that a child may experience when his parents divorce.
2. List five factors that help determine how well a child adjusts to her parents' divorce or separation.
3. Define shared parental responsibility.
4. Name two issues that a parent might have sole parental responsibility over if the court finds shared parental responsibility to be a detriment to the child.
5. List six examples of behavior that should be prohibited at visits.