Unraveling Parental Alienation as a Judge, Attorney and Advocate for Children

Presented by: Suzanne Schwab Radcliffe

suzanne@schwabradcliffe.com

What is Parental Alienation?

“Brainwashing” by one parent against the other parent by reiterating negative actions and description about the other parent to the child.

Reiterating

Definition: Saying something again and again typically for emphasis or clarity.

In the legal world Parental Alienation is very controversial.

Why?

1. Alienation is very subjective.

2. Evidence is hard to get.

3. Opponents say it is “junk science” no empirical data. (but there is)

Evidence often is hearsay, so it is difficult to offer into evidence

*Exceptions to Hearsay: TRE 803 and TRE 804-

1. Present Sense Impression- A statement describing or explaining an event or condition made while or immediately after the person perceived it.

2. Excited Utterance- Statement relating to a startling event or condition made while the person was under the stress or excitement that it caused.

3. Then existing mental, emotional or physical conditions (such as feeling pain or mental feeling) IT DOES NOT INCLUDE A STATEMENT OF MEMORY OR BELIEF

TEXAS VIEWPOINT

In Texas Parental Alienation has been called a “syndrome” but some question this as a syndrome.

In past years, at conferences there has been a bigger emphasis put on the term ”Parental Alienation” vs other years it seems to have been downplayed.

I recall the first mention of Parental Alienation at a legal conference was around 2008.

(always has been around there just was not a label for it)

Texas Case Law

There are approximately 100 cases in Texas that mention Parental Alienation.

- There are numerous examples of Parental Alienation in court cases.
- In general, how do the Appellate Courts address Parental Alienation evidence?

*Keep in mind, Trial Court judges have a lot of discretion

Texas Policy

“Courts recognize emotional and financial cost of custody cases, including harmful effects on children which can cause perpetual emotional turmoil for children and alienation from one parent. These cases can exacerbate and polarize the child from a parent.”

Some Interesting Texas Appellate Cases

2017 Brazos County Houston COA

- Mother filed for custody from father. Trial Court found a “clear pattern of Parental Alienation by father **and his family** depriving mother of having a positive relationship with children.”
- Father lost custody.

Examples:

- **AFTER DIVORCE (I see a lot of this, the child suddenly without justification starts being hostile to other parent, even though during marriage child and that parent were very close)**
- Children were very demeaning towards mom.
- Father was unresponsive to mom regarding the children.
- School thought there was only a father, they had no idea the mother was around. There was no reference to mom even though she was present.
- Father encouraged kids to call mom by her first name.
- Children knew about adult issues regarding mother and father. Father blamed mother for their issues.
- Father refused to co-parent.
- When it was time to go back to dad’s house, the kids showed extreme anxiety and changed when he picked them up.

Affirmed

2019 Houston COA

- Trial Court granted father's request to change custody.
- Dr Alvarez testified as an expert and stated alienation attempts can qualify as abuse in her opinion.

Examples:

- Mom had exchanges done at Police station and Dr Alvarez said this was a form of Parental Alienation because it set out to make dad look like he was "dangerous" QUESTION to consider..
- Mother constantly was untruthful about dad to children and to anyone who would listen, attempting to diminish his character with the kids, friends, parents, etc.
- Told child's therapist false statements about dad to make him look bad to the therapist.
- Appellate Court affirmed Trial Court and said, "The Trial Court had enough evidence to support Dr. Alvarez's findings that Mom intentionally and repeatedly attempted to alienate the kids from father.

Affirmed

2020 Houston COA

- Father's allegations of mom's Parental Alienation did rise to the level to support allegations that the "children's present environment was dangerous to children."

Examples:

- Children called father by his first name **TWICE.**
- Children told him he is not their daddy.
- "My daddy will put you in jail"- children referring to stepfather as 'daddy'
- They used mom's new husband's last name.
- At **ONE** visit mom followed him and children around Chuckie Cheese.
- Father did not get change of custody.

2021 Fort Worth COA

- At trial, Father's expert testified about Parental Alienation by mom towards dad.

Examples:

- Mom was bad mouthing father.
- Mom planted things in child's head about father that didn't happen.
- Mom rolled her eyes when speaking about dad.
- Appellate Court stated; "There might be a combination of alienation and bad behavior by parent being alienated."
- On the same note in another case in the First COA (Houston) April 2019.
- Father accused the Trial Court of helping aid in Parental Alienation.
- Father did not get custody.

2021 El Paso COA

- Father appealed mom getting custody.

Examples:

- He accused mom of a pattern of perjury, false reporting (repeatedly) and Parental Alienation

What did mom do in regard to specific alienation?

- Dad's only claim was "she acted maliciously towards him in regard to her communication with him about kids".
- Father lost appeal.

2022 13th COA

- Trial Court found a “clear indicia of parental alienation” and it immediately ordered a change of custody from Mom to Dad. Court gave mom (who had primary) SUPERVISED visitation. (unusual)

Examples:

- Mom constantly kept kids from seeing their dad.
- Mom was making concrete plans to move out of the country with children.
- Mom constantly questioned the children about their Dad and made negative remarks.

AFFIRMED

2022 Amarillo COA

- Father filed for custody. Trial Court found a pattern of alienation by Mom.

Examples:

- Mom undermined dad's discipline of children.
- Mom interfered with father's possession periods.
- Mom does not let the kids speak to dad at their activities
- Mom constantly made disparaging remarks about father to kids
- Mom showed kids screen shots of text messages between her and the father
- Mom interfered with father's possession by texting, face timing and constantly calling kids during his parenting time.
- Father got custody of the kids.

AFFIRMED

2023 Corpus Christie COA

- Mother filed for custody from father and claimed Parental Alienation.

Examples:

- Parent Facilitator in case described father as uncooperative and hostile towards mother in sessions.
- Father sent a lot of negative parenting app messages (warning)
- Father harassed mom, threatened her and acted in a demeaning manner towards mother.
- Father with the children tracked and followed mom pointing out all the “bad things” their mother did.
- Mother got custody of kids.

Affirmed

2024 San Antonio COA

- Mother had custody; father filed a Modification in Trial Court (TC) seeking custody
- Father won custody

Examples:

- One of mom arguments against change of custody was that “father consistently engaged in Parental Alienation harming the children’s emotional well-being.”
- Court upheld TC’s change of custody to father.

Dear Judge,

Kid's Letters to the Judge

Compiled by
Charlotte Hardwick

Dear Judge,

Dear Judge,

I thought the worst moment of my life was when my mom told me she and dad were getting a divorce.

I was wrong. This is the worst. Which ever parent I am with wants me to be loyal. I can only prove my loyalty by saying I don't want to be with the other parent. The other parent is worried that I will stop loving that parent because of something the parent I am with said. Then I get dropped off or picked up and it starts all over again.

It's like sixth grade when two of my girlfriends made me crazy trying to force me to pick one of them to be my best friend.

I remember when I was sad sometimes. Now I have trouble remembering when I wasn't sad.

Yours truly,

Bailey A.

Dear Judge,

Dear Judge,

I need you to help me. My dad is trying to be a good dad now. He used to stink at it but he is trying reel hard.

My mom says he is a liar and a cheat and you can never trust him. But he is not doing any of that stuff now.

My mom does stuff to make it so my dad messes up. She thinks I don't know it but I do. Dad knows it to but he does not say nothing.

My dad is getting good at finding out where I will be and has been showing up on his own. I was the only guy who did not have a dad before. Please make it easier for my mom so she won't be so mad.

Yours very truly,

Brian B.

odywar.com

Dear Judge,

Dear Judge,

Can you ask God to help my mom.

My dad says that since she is not a christian she is going to burn in hell for ternity. I love my mom and have asked Jesus to save her but my dad said that wont help. He said she has to accept Jesus in her heart to be saved.

Mommy said she will be just fine cause God loves her to.

Since your are old and very important could you please talk to God for me. I worry about my mom all the time.

Thank you very very much,

Janice J.

Dear Judge,

Dear Judge,

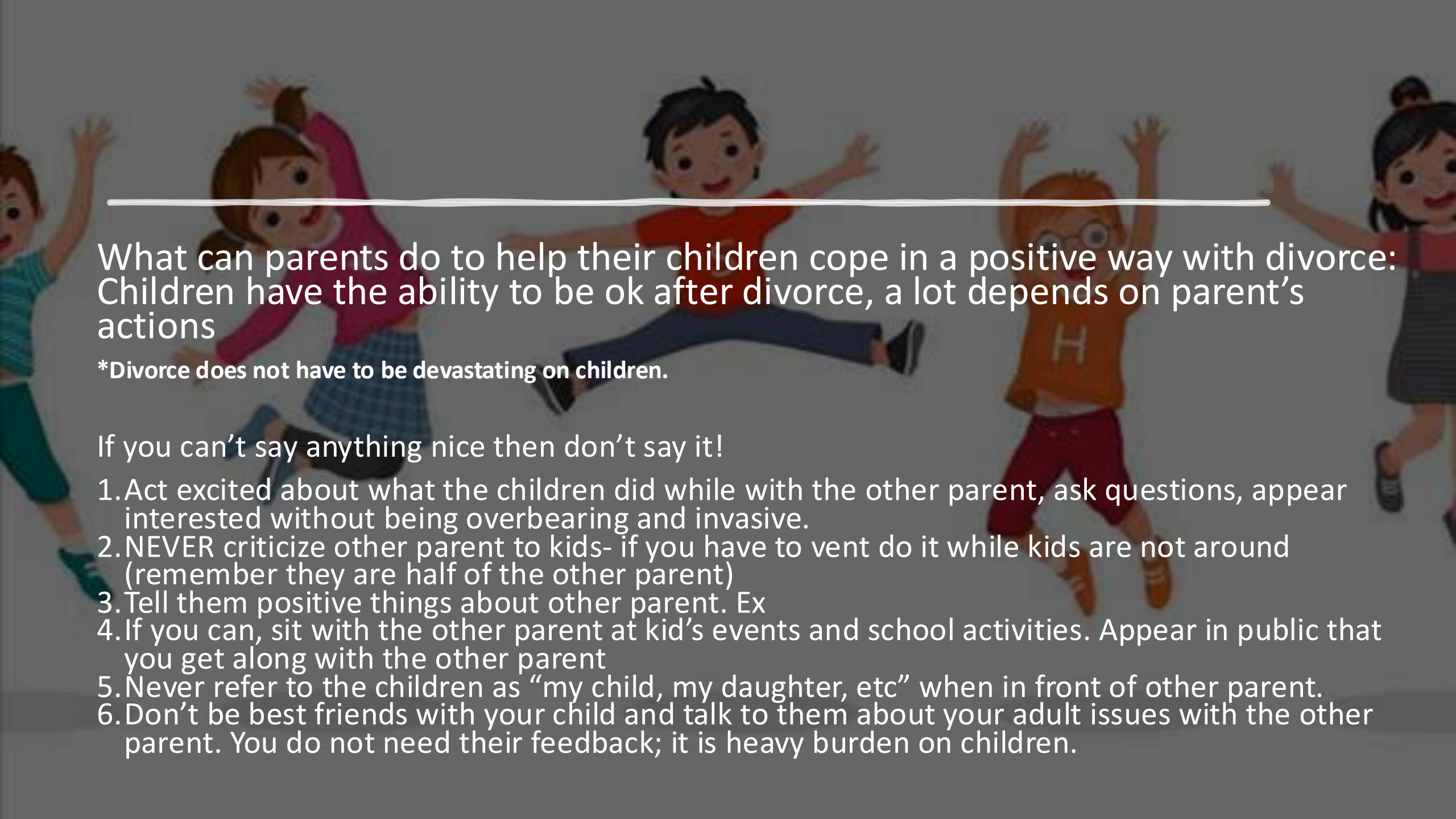
Tell my mom if she wants to divorce my dad she can.

But tell her she can't divorce him from being my dad.

Melinda K.

What can we learn?

Parents should act like the adult and not the child



What can parents do to help their children cope in a positive way with divorce: Children have the ability to be ok after divorce, a lot depends on parent's actions

***Divorce does not have to be devastating on children.**

If you can't say anything nice then don't say it!

1. Act excited about what the children did while with the other parent, ask questions, appear interested without being overbearing and invasive.
2. NEVER criticize other parent to kids- if you have to vent do it while kids are not around (remember they are half of the other parent)
3. Tell them positive things about other parent. Ex
4. If you can, sit with the other parent at kid's events and school activities. Appear in public that you get along with the other parent
5. Never refer to the children as "my child, my daughter, etc" when in front of other parent.
6. Don't be best friends with your child and talk to them about your adult issues with the other parent. You do not need their feedback; it is heavy burden on children.