



Who Are We?

By Joe Pickard, Esq.

I am the oldest of ten siblings. Five of us have the same mother and father; four others are the product of my mother and my step-father; and the remaining one is the son of my father and step-mother. Such is the result of blended families after divorce.

My youngest brother and sister are twins and nearly nineteen years younger than I am.

At the time of my parents' marital difficulties, I was about 12 years old. In the state of Texas (I haven't checked to see if it is still true), a 12-year-old was presumptively competent to testify as to his or her wishes as to custody and divorce proceedings. Somewhat precocious, my parents decided to ask me to testify in their divorce about where I wanted to live. As I recall, it went something like this:

Question: You are 12 and it's legal for you to say who you want to live with, so we want you to tell the judge who you want to live with.

Answer: Well, has a decision been made about my brothers and sisters?

Question: Well, we have decided where they will be, but they are too young to talk to the Judge.

Answer: Where are they going?

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Question: They will be living with your mother.

Answer: Well then I guess this is really your problem, I think that I will just go where the other kids are going.

In that exchange, I became a divorce lawyer.

I learned a lot about the practice of law during my parent's divorce. Over the years, and upon reflection, I think I can say two things that are generally true about children and divorce:


- 1) The child wants Mom and Dad to reconcile, and
- 2) At some level, the child blames himself or herself for the divorce.

With respect to the former observation, I think it can be said that when a mother and a father parent a child, it is with the understanding they will indefinitely be the parents in an intact household for the benefit of the child and for the child's development and upbringing. We know that this is statistically true in only about half of all marriages, but the implicit message to a child is that Mom and Dad will always be here for you, and that you are safe in their care. Divorce undercuts and destroys this implicit message, and is at the core of the emotional upheaval that occurs in most cases.

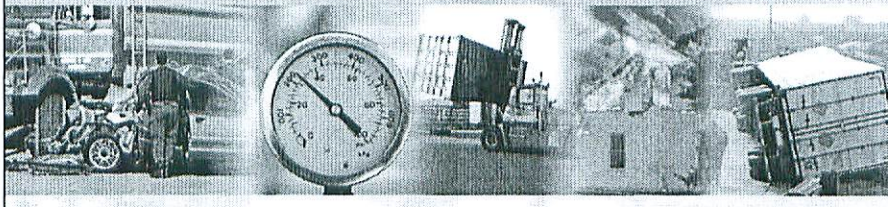
With respect to the latter observation, the child misunderstands cause and effect, and frequently mistakes the parents' upset with one another as the result of something that the child did or didn't do. As a child of divorce, I frequently wondered whether my own behavior contributed to the demise of the marriage. Obviously, as an adult, I can see that my parent's problems were a lot more significant than dealing with a precocious and outgoing (i.e., out-of-seat behavior problem) child. Nevertheless, as a child of divorce, emotionally I am still connected to every little thing that I did that was annoying or upsetting to my parents.

Today, more than 40 years later, in practicing family law, I frequently return to my roots and think of things as a 12-year-old in divorce might. I disclose to my clients, regularly, that I see custody cases through the eyes of a 12-year-old boy.

While these experiences have left their mark on me, I draw strength and confidence from them. When I talk to parents embroiled in custody cases, I can speak as one with authority. I talk to them about my concerns for their children. I suggest to them that keeping the children's best interests are paramount, and tell them I will confront them if I ever think that they are making any decisions that may be damaging to the interests of the children. I think most of my divorce clients embroiled in custody disputes appreciate this advice and perspective.

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I think I should also note that, with rare exceptions, I have rather uniformly advocated that we should not make children of any age testify in court, or even in chambers as some of our procedures permit.

I can still hear my parents telling me "we want you to talk to the judge . . ."

Joe Pickard, Pickard & Associates, PC, practices in the fields of Family Law, Criminal Law, Personal Injury and Medical Malpractice in Littleton, Colorado. Reach him at 303-989-6655 or joe@lawpickard.com.