The validity of child custody fitness evaluations: psychological, legal, and policy implications

William O'Donohue, University of Nevada
Robert Emery, University of Virginia
Randy Otto, University of South Florida

Abstract

High rates of divorce and nonmarital childbearing have dramatically increased the number of child custody disputes. This circumstance creates problems for parents, for the courts, for professionals involved in these disputes, and, of course, for children. Child custody disputes are greatly complicated by the fact that legal guidelines for resolving them are vague, and direct courts to make decisions according to the "best interests of the child" without clearly delineating what those best interests are or how they are to be balanced. These vague guidelines encourage conflict because the outcome of a custody dispute is uncertain, and research clearly documents that parental conflict is harmful to the children. Courts often times turn to mental health professionals for assistance in determining the children's best interests by requesting that they perform custody evaluations of the parents and children. However, the goals of the evaluations are unclear, the implicit or explicit values inherent in the process typically go unchallenged, and the methods used by custody evaluators are sometimes scientifically unsound. This report critically reviews the guidelines for custody evaluations developed by major professional organizations, describes the current state of practice in this area, and reviews research examining the predictors of children's adjustment to divorce. We conclude that (1) it is essential to explicate the values and goals of the custody evaluation process; (2) in striving to serve these goals, mental health professionals must abandon many commonly used assessment techniques in favor of scientifically substantiated measures, and limit their recommendations and opinions to those that are supported in the research literature; and (3) families, children, and the law would be served by a less adversarial approach to resolving these disputes, as can be accomplished through alternative methods of dispute resolution and would be limited by more clear, determinate legal guidelines.