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Parent Education and Custody Effectiveness (P.E.A.C.E.): A Preliminary Report to the New York Legal Community

BY HON. SONDR MILLER, STEPHEN W. SCHLISSEL
AND ANDREW SCHEPARD

THE NEED FOR P.E.A.C.E.

Because of the intense emotions and changes created by divorce and separation, many parents do not focus on their children's needs for the parents to work together to help children through the reorganization of their family life. Uneducated about the emotional and legal process required of them and their children, parents often unwillingly inflict serious damage on their children who become casualties of the parents' own battles.

Research strongly suggests that parental divorce and separation presents serious transitional difficulties for children which they can usually better surmount if parents cooperate.¹ In contrast, prolonged parental conflict creates the likelihood that the child will deteriorate emotionally, educationally and economically.

In response to these realities, many states now have various forms of parent education programs.² These programs are intended to remind the parents of what the children are going through and how to help them through the difficult transitions required.

In New York, the Parent Education And Custody Effectiveness (P.E.A.C.E.) Program is being implemented in many communities throughout the state on a pilot program basis. P.E.A.C.E. is a joint project of the Hofstra University School of Law and the Hofstra University School of Education's Graduate Program in Marriage and Family Counseling. Through

both private donations and a federal grant from the State Justice Institute, P.E.A.C.E. has increased in both size and scope since its inception. The co-sponsorship of New York's Interdisciplinary Forum on Mental Health and Family Law (IDF), an umbrella organization of representatives of leading family law and mental health groups, has provided P.E.A.C.E. with significant guidance and support.³

The purpose of this article is to briefly introduce the legal community to P.E.A.C.E., as well as to enlist their support in the further development of this interdisciplinary effort to aid parents and children. We will provide a brief overview of P.E.A.C.E. and parents' reactions to it. Finally, we will then briefly touch on future directions for P.E.A.C.E. and encourage lawyers to become involved in their local communities.

WHAT IS P.E.A.C.E.?

P.E.A.C.E. is an interdisciplinary educational program whose premise is that when parents understand the effects of divorce or separation on children, they are empowered to make responsible decisions for them. P.E.A.C.E.'s curriculum consists of three topics: (1) how the legal process resolves disputes parents do not resolve themselves, such as child support and custody; (2) the adult experience of divorce and separation; and (3) the child's experience of divorce and separation and how parents can help their children cope with this transition. Most programs involve a large group presen-

tation followed by small break-out groups led by trained facilitators.

There are several characteristics that are common to each New York P.E.A.C.E. program. Each program is organized by volunteer Local Advisory Committees of judges, court administrators, lawyers and mental health professionals, each of whom have a great deal of discretion to design a program to suit the needs of their communities. Program presenters in a four hour training pro-

The research and drafting help of Michael O'Malley, Hofstra Law School Class of 1997, in the preparation of this article is gratefully acknowledged.

¹ Andrew Shepard, *War And P.E.A.C.E.: A Preliminary Report And a Model Statute On An Interdisciplinary Educational Program For Divorcing and Separating Parents*, 27 U. MICH. J.L. REF. 131, 137-152 (Fall, 1993).

² See e.g., Meyer Elkin, *Educational Preparation for Divorce—Another Missing Link in the Divorce Process*, CONCILIATION CTS. REV., Dec. 1983, at v; Jane W. Ellis, *Plans, Protections, and Professional Intervention: Innovations in Divorce Custody Reform and the Role of Professionals*, 24 U. MICH. J.L. REF. 65, 87-90 (1990); Elaine Ciulla Kamarck & William A. Galston, *A Progressive Family Policy for the 1990's*, in MANDATE FOR CHANGE 153, 164-65 (Will Marshall & Martin Schram eds., 1993) (policy paper of the Democratic Leadership Council); Robert H. Mnookin & Lewis Kornhauser, *Bargaining in the Shadow of the Law: The Case of Divorce*, 88 YALE L.J. 950, 958 (1979) (referring to the state's "important responsibility to inform parents concerning the child's needs during and after divorce").

³ We would be seriously remiss if we failed to acknowledge the especially vital role that Bernard Rothman, Rona Shays, Lawrence Spelman and Sam Slipp of the IDF have played in the development of P.E.A.C.E.



gram arranged by the P.E.A.C.E. Project at Hofstra University, and are prohibited from soliciting or accepting business for professional services from parents who participate in that particular session of the program. In order to insure some measure of consistency, each P.E.A.C.E. pilot program is furnished with uniform training and curriculum materials.⁴

A key aspect in the success of the P.E.A.C.E. program is the willingness and desire on the part of judges, attorneys, and mental health professionals to participate.⁵ Parent participants are referred to P.E.A.C.E. from these sources. The willingness of all involved to volunteer their time is crucial to the Program, for it allows P.E.A.C.E. to serve parents for no or a minimal fee. Where P.E.A.C.E. exists, parents have access to it regardless of economic circumstances.

In many locales, the court administration allows the program to take place in the courthouse itself. This serves two functions: first, the courthouse personnel ensure both the physical and mental security of the participants; furthermore, by becoming acquainted with the courthouse, parents are able to see what they can expect to encounter if they are unable to resolve the dispute themselves.

Currently, P.E.A.C.E. Programs are in operation in Nassau, Suffolk, Erie County, Genesee County, Albany, Orange, Westchester and New York County. In addition, Syracuse volunteers are organizing a program for parents in their communities. Finally, P.E.A.C.E. works with similar parent education programs, such as the Dutchess County Helping Children Cope Program.

PARENTS' REACTIONS TO P.E.A.C.E.

It is a sea of confusion, anger and fear out there. And most of us don't know how to swim.... For me, the P.E.A.C.E. Program was the missing link.

— Parent participant in an early P.E.A.C.E. Program⁶

By now, several thousand New York parents have participated in P.E.A.C.E.'s pilot programs. We asked them to complete anonymous evaluation questionnaires. Their reactions have almost uniformly been favorable.

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Andrew Schepard is Professor of Law, Hofstra Law School and Project Director for P.E.A.C.E.'s pilot programs.

Typical is the reaction of one couple who participated in Westchester P.E.A.C.E. and were later interviewed for an article in the *New York Times*. To them, P.E.A.C.E. emphasized the importance of allowing their daughter Lauren to see that her father and mother respect each other's new lives. William McBride, Lauren's father, summed up the message of P.E.A.C.E.:

They steer you 150 percent away from the idea that I'm going to go in and win, saying (instead) I am going to go in and get the best results for my children.

Monica McBride, Lauren's mother, said that:

The classes really opened my eyes a lot. There you are in court battling for divorce or custody and its costing you umpteen dollars. It made me realize that this was not what I wanted for my daughter. Bill and I both always wanted the

best for her from the minute she came into this world, and making her choose would not be the best...you want your children to grow up with the same values that you had when you and your husband were together—to be honest and respect others. When you are going through a divorce you don't realize that they see you crumbling all those things you taught them. Now Lauren sees that her father and I respect each other's new lives. And even though we are going down separate roads, we still have a connection, our daughter. She is the one we will always love.⁷

A number of attorneys have reported observations about their clients who attended to P.E.A.C.E. organizers similar to this one from a follow-up survey:

I do not speak to my client every day now. There is not nearly the animosity that existed before the program. And,

⁴ For example, P.E.A.C.E. has produced an award-winning videotape for parents in which the comments of children who experienced parental divorce and separation are interspersed with comments of judges, lawyers and mental health professionals.

⁵ The participation of the Erie County matrimonial bar in P.E.A.C.E. was recently described as follows:

[A]t a time when the legal profession has experienced increasing public skepticism, I think it is important to emphasize for the public that, for almost a year, among the volunteer professionals [who have presented P.E.A.C.E. to parents] each month have been two (sic) matrimonial lawyers. These lawyers have been representative of the matrimonial bar in general, with both senior and relatively new lawyers devoting considerable unpaid time in preparation and formal presentation, followed by informal discussion groups. The 21 lawyers who volunteered as presenters have all been members of either the Matrimonial and Family Law Committee or the Family Court Committee of the Bar Association of Erie County.

Paul D. Pearson, Esq., *Local Attorneys Come To Rescue Of Children Of Divorce*, THE BUFFALO NEWS, Editorial Page Oct. 24, 1994 at 2 (letter to the editor).

⁶ Tammy Ale, Remarks at the Conference, *From War to P.E.A.C.E.: New Directions for New York's Child Custody Disputes* (Apr. 24, 1993).

⁷ Kate Stone Lombardi, *Courts Take A New Approach in Divorce Cases*, N.Y. TIMES, October 3, 1993 § 13 (Westchester Weekly) at 1.



finally, and most importantly, the two parties for the first time are sitting down and coherently discussing some sort of an agreement leading to a custody and dispute resolution, without trying to kill each other.

An Interim Evaluation Report of the Erie County P.E.A.C.E. Program prepared by independent consultants confirmed that participants view the Program very favorably. Of the 93 respondents, 80% stated that their knowledge about families and divorce had increased through P.E.A.C.E.; over 95% of the respondents said that they would use what they learned from the P.E.A.C.E. seminar. Particularly striking, however, is the response of parents, many of whom had to be strongly encouraged to overcome initial inclinations not to attend the Program, to the question of whether participation in P.E.A.C.E. should be compulsory. Eighty percent of the participants felt that all parents entering into the divorce or separation process should, by law, be required to attend P.E.A.C.E., while more than 90% of the respondents stated that they would recommend P.E.A.C.E. to others.

When asked what was "most helpful" about P.E.A.C.E., the responses included:

- ❖ Information about shared custody
- ❖ Learning to focus on the child's best interests
- ❖ Learning to communicate
- ❖ Coping with single parenthood
- ❖ Asking questions
- ❖ Realizing the importance of cooperation
- ❖ Realizing the need for individual counseling
- ❖ Information on the child's experience of divorce
- ❖ Guidelines for giving children a normal life

When asked what was "least helpful" about P.E.A.C.E., responses ranged from a desire to spend more time discussing problems in the "break-out groups," spending more time on the legal issues, and changing the format of the sessions so that they were less like a lecture. One recurring suggestion that should receive careful attention, however, was that people should be referred

EARLY in the divorce and separation process.

Comments from parent participants in the Dutchess County Helping Children Cope Program mirror those of P.E.A.C.E. participants, as shown by the following responses to the question "The two most important things I learned from this seminar were":

- ❖ "Children should be put first"
- ❖ "Put aside anger for ex-spouse where children are concerned"
- ❖ "That I am not the only one going through this"
- ❖ "Not to blame the other parent"
- ❖ "Not to blame the child"
- ❖ "Divorcing parents have to communicate"
- ❖ "The effects of divorce on children can be minimized"

WHERE P.E.A.C.E. IS GOING

Peace must be dynamic, not static, changing to meet the challenges confronting it, for peace is a process, a way of solving problems.

— President John F. Kennedy⁸

While President Kennedy was speaking of peace between nations, he could just as easily have been speaking of New York's P.E.A.C.E. Program for parents and children. P.E.A.C.E. too "is a process and a way of solving problems that evolves in response to challenges confronting it."

Today's P.E.A.C.E. Program is different than the one of only two years ago. The P.E.A.C.E. curriculum now places more emphasis on child support issues than it did in its initial programs. The P.E.A.C.E. curriculum and procedures also incorporate more sensitivity to the problems of domestic violence and has worked on procedures to ensure physical safety of spouses who attend P.E.A.C.E. sessions. More changes will occur as more experience is amassed. Long-term evaluation of P.E.A.C.E.'s effects on parental behavior is important.

With increasing support from the judiciary, P.E.A.C.E. programs will develop in areas where they currently do not exist. Our hope is that every divorcing or separating parent in New York will eventually have access to a P.E.A.C.E. Program. Eventually, we will have to address issues such as program

standards, evaluation, funding and staffing as well as whether parental participation should, in some cases, be mandatory. Indeed, several states have required parent education programs by court rule or legislation.⁹

P.E.A.C.E. is also beginning to focus on identifying potentially useful new program initiatives. Effective court-based divorce education programs for children (not just parents) exist in other states such as Kentucky and Hawaii.¹⁰ The programs in these states respond to children's needs for education and reassurance during the process of parental divorce and separation: P.E.A.C.E. hopes to experiment in the future with such efforts. There is also a need for parent education programs and materials focused on Spanish-speaking parents, as well as other linguistic and racial minorities.

Without overstating, the beginning of P.E.A.C.E. has created a ray of hope that we can, as a community, come together to work with the court system to develop positive programs to support New York families through the difficult transition of a divorce or separation. Children are our collective future and the legal system needs to experiment with ways to shield them from parental combat. We urge that the lawyers of New York strongly encourage P.E.A.C.E.'s future growth and development. The families of New York deserve no less.

⁸ President John F. Kennedy, Commencement Address at American University (June 10, 1963).

⁹ See e.g., Junda Woo, *More Courts are Forcing Couples to Take Divorce-Education Class*, WALL ST. J., Oct. 1, 1993 at B8 (describing programs in Hawaii, Kentucky, New York, and other states); see also Carol Lawson, *Requiring Classes in Divorce*, N.Y. TIMES, Jan. 23, 1992 at C1 (describing the court mandated parent education program in Cobb County, Georgia); Marcy L. Wachtel, *Divorce Counseling: For the Sake of the Child*, LEGAL TIMES, May 24, 1993 at 29 (listing Kansas, California, Connecticut, Florida, Georgia, Indiana, Minnesota, and Texas as states with mandatory parent education programs). Utah has established a similar mandatory pilot program for divorcing parents in two of its judicial districts. UTAH CODE ANN. § 30-3-11.3 (Supp. 1993).

¹⁰ The Jefferson County, Kentucky Families in Transition Program is a mandatory six-hour program for both divorcing parents AND their children. The Maui, Hawaii "They're Still Our Children" Program is mandatory for parents, and children over the age of six. In addition, San Francisco, California has "Kids Turn," which is administered by credentialed teachers and master's level health therapists; parents and their children are referred to this program by the courts.



GETTING INVOLVED WITH P.E.A.C.E.

Should you wish to become involved in P.E.A.C.E. we suggest you contact the coordinators of the programs in your local area, which are:

Buffalo	Harry Brand	(716) 852-2850
Orange County	Richard Mandell	(914) 295-5151 x6096
Westchester	Rene Motola	(914) 285-3624
Nassau	Samuel Ferrara	(516) 747-0300
Suffolk	Samuel Ferrara	(516) 747-0300
Albany	Sheri Dwyer	(518) 463-3686
Genesee	Judge Charles Graney	(716) 344-2550 x233
Syracuse	Ron Heilmann	(315) 492-1082
New York County	Ann Reiniger	(212) 233-5500
Dutchess County	Joan Posner	(914) 486-2500

(Helping Children Cope)

If no P.E.A.C.E. Program exists in your local area and you are interested in starting one, contact:

The P.E.A.C.E. Project
 Hofstra Law School
 121 Hofstra University
 Hempstead, New York 11550-1030
 (516) 463-6011

EDITOR'S MAILBOX

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Mr. Vilensky states that "the function of a gun is to kill, maim and/or hurt someone." Later he declares the benefits of handguns outweighed by the risk of harm they pose. For the purpose of discussing liability we may choose to overlook that the overwhelming majority of guns are safely and lawfully used for diverse sporting purposes (including hunting, target shooting, and Olympic competition). However, Mr. Vilensky's risk/utility analysis falls apart when one considers that survey research indicates that there are more than 2.1 million protective uses of firearms each year—far more than the number of violent criminal gun uses. Significantly, in only a small percentage of these protective uses is anybody injured.

Perhaps some insight into the real reason for the call for gun manufacturer liability can be found towards the end of

Mr. Vilensky's article. He asserts that the danger posed by children carrying guns to school is too great for New York courts to allow manufacturers to escape liability. Why? It is already illegal to carry a firearm on school grounds, for a child to possess a handgun under most circumstances, and—more significantly here—to sell a firearm to a child. There is simply no problem with manufacturers selling firearms to children, and thus no point in holding gun manufacturers liable when children misuse them.

Maybe the answer is that the plaintiffs' personal injury bar is attempting to reach into what they see as the deep pockets of gun and ammunition manufacturers. They doubtless see a great untapped resource in the coffers of the firearm industry. Some likely also see the liability issue as a vehicle for social change, i.e., using product liability actions to in effect take guns and ammunition away from law-abiding citizens by making their ownership cost-prohibitive.

When the fog of rhetoric and emotion is finally lifted, it becomes readily apparent that guns have social utility that far outweighs any damage caused by the proportionately small number of criminal misuses of firearms. Faced with defeat upon defeat in actions against gun manufacturers, personal injury lawyers have learned that both courts and legislatures are reluctant to hold a manufacturer responsible for the *misuse* of its products. Allowing such actions against gun manufacturers would open the door to suits against manufacturers of other products when their properly designed products are criminally misused. How long would it be before we would see suits against car makers for drunk driving injuries and producers of matches and gasoline for arson?

Robert P. Firriolo

North Massapequa

Note: The writer is a certified firearms instructor, legal advisor to the Sportsmen's Association for Firearm Education, Inc., a board member of Nassau County Fish and Game Association, Inc., and a member of the Lawyer's Second Amendment Society.