

# The Phenomenon of Parental Alienation



by Helen Sfikas Rogers

While society is full of examples of parents who are upset over a break-up or divorce and malign the other parent to their children, parental alienation occurs when one parent wages a campaign or crusade to damage or destroy the relationship of the other parent and their child. The result of parental alienation, if there is no intervention, can be the total rejection of a parent by the child without real justification that lasts a lifetime. The challenge for family law attorneys and the Courts is to recognize the difference between some unkind words that often occur in a usual case, but have no long-term effects, and the actions of an alienating parent. More recent terminology talks in terms of the “favored” parent versus the “rejected” parent.

Dr. William Bernet, an Emeritus Professor of Psychiatry in the Department of Psychiatry at Vanderbilt University School of Medicine, co-edited a book entitled “Parental Alienation: The Handbook for Mental Health and Legal Professionals” published in 2013, arguing that parental alienation should be a separate psychological condition listed in the (DSM-5). While parental alienation is not a separate term in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)*, the book of definitions published by the American Psychiatric Association, the concept of parental alienation is expressed in at least three diagnostic terms that are in DSM-5. A child with parental alienation can be identified by one or more of the following conditions:

**Parent-child relational problem.** This mental condition is used when there are serious problems in the relationship between a parent and child, including the child’s rejection of a parent. The DSM-5 description of this condition says that parent-child relational problem “may include negative attributions of the other’s intentions, hostility toward or scapegoating of the other, and unwarranted feelings of estrangement.”

**Child affected by parental relationship distress.** DSM-5 says that this term should be used “when the focus of clinical attention is the negative effects of parental relationship discord (e.g., high levels of conflict, distress, or disparagement) on a child in the family, including effects on the child’s mental or other physical disorders.”

**Child psychological abuse.** All mental health professionals who have addressed this topic agreed that causing parental alienation in a child is a form of child psychological abuse. DSM-5 defines child psychological abuse as “nonaccidental verbal or symbolic acts by a child’s parent or caregiver that result, or have reasonable potential to result, in significant psychological harm to the child.”

True parental alienation, as it is occurring, can be very subtle. It can evolve in many different ways, but often involves the favored parent talking repeatedly about the rejected parent, and criticizing everything that occurs at the rejected parent’s home. The children are often encouraged to call the favored parent when at the rejected parent’s home, not to engage with the rejected parent when with them, and to ask repeatedly to be allowed to go back to the favored parent’s home. Frequent indicators of parental alienation are, contact refusal, a campaign of denigration toward the rejected parent, frivolous rationalization for the contact refusals, lack of ambivalence, absence of guilt, borrowed scenarios without actual data, and spread of the animosity to other family members. The Tennessee case law on this subject is relatively sparse. Only fourteen cases mention the term, and only a very few of those have any discussion. The first thorough discussion was found in *Duke v. Duke*; 2014 WL 4966902 (Oct 3, 2014 at pages 4 & 5.

Several de-programming, or reunification programs have sprung up nationwide to handle these types of cases. Two of those are “Family Bridges” and “High Roads”. These programs are somewhat controversial, because obviously the favored parents are unhappy with their children being put into these programs. The programs spend three to five days in intensive treatment with the rejected parent and the children, helping the children to see other perspectives and other points of view, and understand that their criticisms of the rejected parent often have no basis or are unfair. In order to allow the children to reconnect with the rejected parent, there is often recommended an extended period of time when the favored parent or alienated parent have absolutely no contact with the children in any form, and the children live exclusively with the rejected parent. Usually this time period is ninety (90) days, and then reintroduction of the favored parent is a slow progression of first writing letters, then meeting with the children in a

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therapeutic counseling setting, then supervised non-overnight parenting time, with the goal of having unsupervised parenting time. Much of this progression depends on the favored parent or alienating parent recognizing their role in the psychological damage that they have inflicted on their children. *Tennessee Code Annotated* Section 36-6-405(b) requires the court to make a finding of “the likelihood of substantial harm” in order to have an emergency change in parenting plans, and thus, the challenge for a trial attorney is to have the trial court recognize that this is a form of child mental health abuse. If a temporary modification is granted ex parte, the respondent shall be entitled to an expedited hearing in fifteen (15) days of entry of the temporary order.

Recently the Eastern Section Court of Appeals dealt with one such parental alienation case where the children attended Family Bridges. This case, *McClain v. McClain*, 2017 Westlaw 4217166, was just decided September 21, 2017. Following a bench trial, the Court found that the father had actively supported the children’s alienation from the mother, without reasonable cause, and awarded exclusive custody of the children to the mother who resided in Texas, and directed the children to participate with the mother in a workshop in California that was recommended by the forensic psychologist as a therapeutic methodology for parental alienation at an estimated cost of \$28,000.00. This was affirmed on appeal, except for vacating the criminal contempt charges against the father. The *McClain* decision references the Duke finding of parental alienation, and held as follows:

The difference between estrangement and alienation resides in the presence vs absence of a reasonable objective basis for a child’s severe and persistent rejection and denigration of a parent. Rejection and denigration of a parent with a reasonable objective basis is estrangement; rejection and denigration without such a basis is parental alienation. As set forth in Bernet et al (2010):

“[T]he essential feature of parental alienation is that a child ... allies himself or herself strongly with one parent (the preferred parent) and rejects a relationship with the other parent (the alienated parent) without legitimate justification. The primary behavioral symptom is that the child refuses or resists contact with a parent, or has contact with a parent that is characterized either by extreme withdrawal or gross contempt. The primary mental symptom is the child’s irrational anxiety and/or hostility toward the rejected parent. This anxiety and/or hostility may have been

brought about by the preferred parent or by other circumstances...”

The phenomena of parental alienation are well recognized internationally and, sadly, are frequently alleged or encountered in custody and visitation litigation. Parental alienation may occur in the absence of any other mental condition. The specific term “parental alienation” does not yet appear as a psychiatric diagnosis in the official classification of the American Psychiatric Association, although its features commonly may be subsumed under one or more other diagnostic categories, such as Parent-Child Relational Problem, Separation Anxiety Disorder, and Shared Delusional Disorder (a/k/a *folie a deux*).

This Court has previously recognized parental alienation as a development that may rise to the level of a material change in circumstance. See *Duke v. Duke*, No. M2013-00624-COA-R3-CV, 2014 WL 4966902, at \*18 (Tenn. Ct. App. October 3, 2014) (concluding that “Father’s interference with Mother’s relationship with the children was a material change of circumstance” since entry of the prior permanent parenting plan in a case involving modification of a residential co-parenting schedule under allegations of and an expert witness’s testimony describing parental alienation);...

The Court does find and does believe that parental alienation is a form of emotional abuse that should not be tolerated. The Court would be glad to consider the reasonable preference of these children if I could find that those statements by them were reasonable, which the Court cannot and does not. Fortunately, we have a situation where I have two parents who, you know, are employed, they’re able to make some money, we have some financial resources to do some things with because that is going to become very necessary.

In *McClain*, following the children’s time at Family Bridges Workshop, there was a ninety-day complete no contact with the father, and the finding that the father’s future time would depend upon the children’s progress with their mother.

It is, in fact, abusive for a child to lose their relationship with one of their parents because of ongoing anger or bitterness that the favored parent has toward the rejected parent. If you are confronted with a case that seems to be going in this

direction, and the child or children are moving toward rejecting a relationship with one of the parents without good cause for same, my strong recommendation would be to find a mental health professional experienced in parental alienation to begin counseling with the rejected parent on how to respond to the children when they make the statements or reject them, and to have witnesses or recordings to help the court understand the severity of the situation and the rejection that is occurring. These children are truly the silent victims in often a long-term battle between the parents. They need help and understanding, although it is very difficult for the rejected parent to take the rejection from the children. It is also difficult for the courts to take what is, at times, thought to be draconian measures of cutting off contact with a parent, but I have seen almost miraculous recovery when these programs and this type of cut-off occurs. It is as if the children have been poisoned, and once the poison is gone they are well again.

The children, once relieved of the burden and responsibility of having to reject a parent, heal quickly and realize their rejected parent is not evil, as they have been depicted. The outcome of the case, whether there is a return to the prior parenting schedule or a change of custody from the favored parent to the rejected parent, depends largely on whether the

favored parent buys into or accepts their responsibility and is willing to change their behavior, thereby helping the children to freely have a relationship with both parents. Sadly, some courts do not understand the severity of these cases, and some parents will never accept their role in creating the problem and either lose their relationship with the children through court intervention, or persist until the children completely reject and have no relationship with the other parent. Fortunately, in my experience, these cases are a very small percentage in domestic law, perhaps as low as two or three percent of the cases we see in our domestic practice. Hopefully, with earlier recognition those numbers can continue to diminish.

## ABOUT THE AUTHOR

*Ms. Rogers is the founding member of the firm of Rogers, Kamm & Shea, with offices located in Davidson and Williamson Counties, where she has practiced for over 35 years. She is a Rule 31 mediator and trained in collaborative law. Ms. Rogers served 5 years as a Hearing Panel member for the Board of Professional Responsibility. She has a large body of appellate court decisions in this State and is a frequent author and lecturer. Ms. Rogers is a fellow of the Nashville Bar Association and American Bar Association. Ms. Rogers is a life member of TTLA.*

