



Promoting Well-Being in Domestic Relations Court

Building Understanding Series

KEY POINTS FROM CHAPTERS 1-6

CHAPTER 1

Understanding Well-Being in Domestic Relations Court

1. Encountering people with mental health conditions or who have experienced trauma is not uncommon for those in the court system.
2. Understanding those conditions or circumstances is of paramount importance for the administration of justice.
3. Exposure to trauma can be debilitating, but a change by judges and court staff in how that exposure to trauma is addressed can be empowering.

CHAPTER 2

Understanding Trauma, Its Impacts, and How to Create a Trauma- Responsive Court

1. Everyone experiences trauma.
2. The impact of having experienced trauma may manifest in a wide variety of responses and behaviors that should be considered contextually.
3. Trauma can change the brain, impact cognitive functioning and emotional responses, and influence behavior.
4. Having to engage in court processes can be traumatic in itself, and may compound the effects of other trauma.
5. For courts to address persons coming to court fairly, the court must become a “trauma-informed court.”

CHAPTER 3

Understanding the Spectrum of Mental Health Conditions

1. Our responses to people with mental health conditions should not be based on stigma.
2. Mental health diagnoses reflect a constellation of symptoms that a person may be experiencing, not their parenting or other capacities.
3. Mental health conditions must be viewed in the full context of the circumstances, including the party’s and family’s strengths, how they are impacted by the mental health condition, and their efforts to address any impacts this may have on their children or parenting. participation in treatment, and/or access to other supports.
4. In working with families where mental health conditions are at issue, the judge must also consider whether a person’s mental health condition is impacting their ability to fully participate in their legal case or court proceedings, and if so, what can help to mitigate those effects.
5. When encountering/working with a person who is experiencing mental health symptoms that are impacting their ability to participate in court proceedings, there are approaches that can better serve/best serve the needs of the parties and proceedings before the court.

CHAPTER 4

Understanding the Impact of Mental Health Conditions on Parenting Capacity

1. Stigma around mental health conditions persists.
2. Parties know this. It is not uncommon for parties to use weaponize mental health diagnoses to influence custody determinations.
3. In a parenting-time dispute where a condition is raised to question parental capacity, suggestions and questions are offered to assist the judge in determining the parent's ability to meet the child's needs.

CHAPTER 5

Mitigating the Risk of Children's Adverse Experiences During and Following Divorce

1. Parental separation and divorce have the potential to negatively impact children if they are not buffered from the negative consequences of family breakdown. Contrastingly, several factors contribute to children's positive adjustment, including protecting them from conflict, creating parenting plans that meet their needs, and ensuring their voices are heard in an appropriate fashion.
2. Children should be protected from becoming too directly enmeshed in their parents' custody litigation.
3. The wishes of a child are frequently a statutory factor in determining best interests and ensuring that the "child's voice" is heard can further their best interests, particularly when the child is of sufficient age and maturity to form independent preferences.
4. Employing the best methods to secure a child's preference is critical in protecting their best interests.
5. A carefully constructed child interview process can assist in limiting the direct exposure of children to the parental conflict while preserving the due process rights of the parents.
6. Access to all information considered by a judge, including what a child may express as a preference, must be afforded to the parties to preserve their due process rights.

CHAPTER 6

Understanding the Benefits of Early Case Intervention

1. Cases in which a participant has a mental health condition or has experienced trauma or abuse might benefit from special attention to case processing.
2. Early screening of new case filings for their unique characteristics has been shown to be very effective for both individual justice and overall caseload management.
3. Systematic screening, or triage, is typically used to place cases on simplified processing pathways, identifying those that require early judicial intervention.
4. Case triage should include looking for indicators of mental health conditions, trauma, or abuse.

