

The Myth of "The Primary Parent"

There is a belief across this State that in households where children exist, one of the adults in the home primarily cares for the child or children and the other tends to other tasks. Should that household ever cease to operate as a team, and the parents go their separate ways, the "primary parent" should take the children with them and the other parent take what is seen as their primary interests and go about their business without a second thought. After all, this was their choice. There should be no looking back, perhaps a time of minimal adjustment and things will then normalize. This result is seen as best for all as it offers the least amount of change and adjustment to the "family" as a whole.

This belief guides our social processes and constricts. This belief impacts how parents are treated at schools, doctor's offices, daycare centers, churches, and even the courts. One parent is seen as superior or more of a parent than the other. One parent is the parent really calling the shots, the other submissive or lazier fair, nearly always deferring to the primary parent who handles those types of matters. Even during the times the other parent is handling things such as bringing parents to school, daycare, or the doctor, they're seen as simply filling in, just doing temporary duty until the real primary parent returns.

Just as in Santa Claus, Ozzie and Harriet, or Father Knows Best, this belief bears little resemblance to real life. It is a myth. Underlying this belief is the assumption that to one parent, the child or children are less important, not a core or fundamental driving force in their psychological make up of what makes them a person, someone who matters in their world. To the children, the assumption is that this other parent is likewise less important to the child than the other parent. That assumption, however, is false.

Parents are just that, Parents. There is no real primary or secondary. In nearly all cases, both parents live and breathe for what their children are and can become. They are their children's lobbyists, coaches, tutors, caregivers, defenders, heroes (and later villains), teachers, cheerleaders, confidants, best friends, personal assistants, taxi drivers, and later in life the mentors, partners, and echoes of from where they come.

When the recent shootings occurred in Connecticut, you saw photos of parents, suffering unspeakable grief, grief because of the arbitrary and unjustified loss of their child or children. Mom's and Dad's together dumbstruck in what must now be their new reality. Their child or children were gone. You could see in the faces the pain, unmeasureable pain. A tragedy in every sense of the word.

When the events in Connecticut occurred you see the falsity of this myth of primary parent. You did not see single parents mourning; you saw pairs of parents, struck to their core. For those of us that are parents and even those who are not, our hearts flew to them because we knew, or could imagine the complete heartbreak and pain they must be feeling.

As a Divorce Attorney focusing almost exclusively on custody issues for nearly 20 years, I can tell you that loss of a child or children happens here in Nebraska nearly every day. Not death for sure. Not the type of total loss that the parents of Connecticut feel as a result of losing their child forever, but the same type of pain as a result of losing a child because of the arbitrary or unjustified acts of another.

When parents divorce or cease living together as a team, how the children are cared for changes. The children who had both parents in their lives daily no longer have that in their lives. Now they experience "Mom's time", and "Dad's time". Under current Nebraska law, "parenting plans" have to be developed, where the parents agree how they will share the time with the children, whether that be on a 50/50 basis or some other arrangement that works for the family and their individual circumstances. There are no limitations on what manner the parents choose to share the children. The problem occurs when they cannot.

When parents cannot agree on how to share the children after they separate, they go to court. Because they cannot agree, they put the matter in the hands of a judge who does not know them, does not know their children, nor does he/she know the other 50 or more families that also have decided this season to put their matters of how to share the children in his/her hands. The Judge is a lawyer, not a therapist. At the same time the judge is deciding how to split time between parents, he/she is also deciding land disputes, criminal cases, personal injury cases, discovery disputes between lawyers, corporations fighting with each other over trademarks, partnership dissolutions, contract breaches, and every other manner of dispute imaginable that must be resolved in a civilized society.

In spite of what people may choose to believe, Judges are people. They put their pants on one leg at a time just as other normal people do. They drive to work each day, having the same imaginative conversations with the other lousy drivers other people do. They look forward to retirement. They have families with the same everyday happenings with them as the rest of the general population. As one can expect, the court is going to decide matters based upon their own personal constructs, what they believe or are preconditioned to believe.

Courts will look to see who they believe was primarily in charge of the children's day to day care. The other parent is deemed secondary, or less important to the child than the other. Therefore one parent will have the children and one will not. The parent who will not have the children will be allowed to see them every other weekend, maybe one night a week to have a meal with the kids, some holidays, and some weeks during the summer. Other than that, they're done. No more time. That's all they will see their children. Anything more would be "extra time" at the complete discretion of the person who just decided they don't want to live with the other parent anymore.

Good parents, parents who love their children, do all the things discussed above with their children, parents who in part derive some of their very being from their children are now suddenly, without reason, and in spite of everything thing they wish could happen, relegated to

this part-time status. Many times not because of something they have done, but because there is this belief that a decision has to be made that gives the children primarily to one parent so it will go to the parent who “primarily” cared for them. In doing so the Court acts on the belief that this action will create the least amount of change for the child in what is a difficult time, and shield the child from further upheaval in the child’s life. The Secondary parent is essentially put in a box. Taken out as needed. Their input on decisions concerning the child, their ability to have time with the child to do all the above things that come with parenting, lost.

Such a decision is not research based. In fact, psychosocial research in this very area indicates that when parents separate, children do better in almost every category for measurement if the parents of the children continue to remain highly involved in their lives, meaning the parents share time. Even if parents do not get along, research shows us that the children benefit from having both parents in their lives to the maximum amount of time possible. Research shows that fathers who have their children with them more pay more in support than those that do not. Children of divorce report better relationships with both parents as they become adults if the parents shared time with the children, whereas children whose parents did not share time find it difficult to have a lasting, positive relationship with the part-time parent when the children turn into adults. So these decisions hurt the children not just in their childhood, but it lasts throughout their lives. A tragedy that did not need to occur does.

Many, many times the parent who portrays themselves as the primary parent will sabotage the marital relationship, driving the parties to separate, and then by portraying themselves as the primary parent reap the benefits of a custodial decision that benefits them, but victimizes the children twice. Once by the breakup of the family unit, and then again by taking away from their lives the other parent who also dearly loves them.

Some parents will refuse to enter into a shared parenting time plan because it is financially beneficial for them to do so. Numerous times through my career I’ve had parents in agreement that sharing time is best for children, only to have the agreement fall apart when the payment of support was reduced to reflect the shared time arrangement. The short sighted goal of maximizing support trumps what the children need.

Colorado and Iowa have accepted the research and acted in the best interests of children. Shared agreements in those states are now the norm, not the exception. Statutes have been enacted to ensure that parent’s first option is working out a cooperative solution with the sharing of the children back and forth rather than parents declaring war against the other which only hurts everyone involved. Other states have similarly acted. Nebraska unfortunately, still clings to the old model, that if courts are called upon to decide matters, there will be a primary parent and a part-time parent. There is no justification to continue to hurt families in this way. This is not the best way. It is the worst way.

With each legislative session, the Nebraska Legislature has the opportunity to enact legislation that brings the best interests of children of divorcing or separating parents to the fore. It is

action that is needed. Action that affects thousands of Nebraska citizens each year. Some of our most vulnerable citizens. Will this be the year?

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