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Improving Court-Mandated Divorce Education by Recognizing the Effects of Parents' Childhood Trauma

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**Improving Court-Mandated Divorce Education by
Recognizing the Effects of Parents' Childhood Trauma**

Anthony J. Ferraro,* Karen Oehme, Ian
Waldick,*** Nat Stern******

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I. Introduction

Pursuant to state and local mandates, thousands of parents participate in divorce education courses in the United States each year.¹ Many programs are designed for the explicit purpose of protecting children from parental post-divorce conflict.² Research has demonstrated that programs that decrease co-parenting conflict and increase cooperation can facilitate post-divorce adjustment in children.³ Far less

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See infra Part I.

2. *See* Susan L. Pollet & Melissa Lombreglia, *A Nationwide Survey of Mandatory Parent Education*, 46 FAM. CT. REV. 375, 376-77 (2008) (reviewing efficacy of mandated programs for parents experiencing divorce).

3. *See* Brenda L. Bacon & Brad McKenzie, *Parent Education after Separation/Divorce: Impact of the Level of Parental Conflict on Outcomes*, 42 FAM. CT. REV. 85, 86-87 (2004) (examining the relationship between the level of parental conflict and child outcomes after education programs for divorcing parents).

research, however, has been conducted on the impact of parents' prior life experiences on the processes that accompany and follow divorce. As the court system begins to focus on the lifelong negative impact of adverse childhood experiences—known as ACEs⁴—and the science of ACEs, judges have become increasingly sensitive to how early traumatic experiences can shape individuals⁵ and society.⁶

Those who divorce typically have endured a disproportionately high number of childhood traumas compared to the general population.⁷ Such exposure may produce a destructive impact on emotional functioning, mental health, and physical welfare,⁸ and can undermine interpersonal relationships in adulthood.⁹ As the legal system increasingly becomes “trauma-informed”¹⁰ in its response to awareness of widespread trauma among litigants, decisionmakers—legislatures, individual judges, and family court

4. See, e.g., Melissa Neal, *Trauma-Informed Courthouses: Providing a Restorative Human Experience Within the Justice System*, POL'Y RES. ASSOCIATES (May 25, 2017 9:36 AM), <https://www.prainc.com/trauma-informed-courthouses-human-experience/>.

5. See, e.g., Shawn C. Marsh & Mari Kay Bickett, *Trauma-Informed Courts and the Role of the Judge*, NAT'L COUNCIL JUV. & FAM. CT. JUDGES (Feb. 11, 2015), <https://www.ncjfcj.org/trauma-informed-courts-and-role-judge>.

6. See U.S. Dep't of Justice Office of Justice Programs, *Human Trafficking Task Force e-Guide: Trauma-Informed Courts*, OFF. FOR VICTIMS CRIME TRAINING & TECHNICAL ASSISTANCE CTR., <https://www.ovcttac.gov/taskforceguide/eguide/6-the-role-of-courts/63-trauma-informed-courts/> (last visited Oct. 11, 2019).

7. See Rebecca A. Colman & Cathy Spatz Widom, *Childhood Abuse and Neglect and Adult Intimate Relationships: A Prospective Study*, 28 CHILD ABUSE & NEGLECT 1133, 1135 (2004) (reviewing research on childhood maltreatment and development through examining the effect of abuse and neglect on relationships).

8. Robert F. Anda et al., *The Enduring Effects of Abuse and Related Adverse Experiences in Childhood: A Convergence of Evidence from Neurobiology and Epidemiology*, 256 EUR. ARCHIVES PSYCHIATRY & CLINICAL NEUROSCIENCE 174, 180 (2005) (discussing the detrimental effects of traumatic stress).

9. Kathy R. Berenson & Susan M. Andersen, *Childhood Physical and Emotional Abuse by a Parent: Transference Effects in Adult Interpersonal Relations*, 32 PERSONALITY & SOC. PSYCHOL. BULL. 1509, 1509 (2006) (explaining that, for example, early trauma is predictive of the likelihood of mistrust and rejection expectancy).

10. See, e.g., Sara E. Gold, *Trauma: What Lurks Beneath the Surface*, 24 CLINICAL L. REV. 201, 232 (2016) (recommending that lawyers and judges be trained in the effects of trauma given its prevalence).

administrators—should consider how trauma affects divorced parents' receptivity and response to co-parenting education. This perspective can help increase the benefits of mandated training to improve post-divorce family functioning. In addition, new data provide evidence that the *type* of adversity that a litigant experienced as a child may affect that person's willingness to accept and implement strategies and messages of divorce education. Such findings have implications for courts, divorce education providers, and policymakers.

Part One of this Article provides a current national overview of divorce education mandates in the United States, along with the rationale for and requirements in those mandates. Part Two describes the science of ACEs; their connection with serious, adult physical and mental illness; and the legal system's response to the implications of trauma.¹¹ Part Three describes a university-based free online training program called Successful Co-Parenting After Divorce¹² and new data from a study of over 500 parents who answered research instruments associated with this university training. The study reveals that many parents had experienced multiple traumas in their youth and that parents without significant childhood trauma had higher-quality relationships with their co-parent. It also provides evidence that certain ACEs that parents experienced were associated with specific parental reactions to the training and with shifts in co-parenting attitudes and behaviors reported after the training.¹³ Part Four discusses the practical ramifications of the research study and includes recommendations for ways in which divorce education can be reformed to better meet the needs of individual co-parents. The Article concludes with a call for national legal groups to advocate for three specific reforms: amending divorce education policy to

11. See generally Nat'l Ctr. for Injury Prevention and Control, Div. of Violence Prevention, *Behavioral Risk Factor Surveillance System ACE Data*, CTRS. FOR DISEASE CONTROL & PREVENTION (Apr. 9, 2019), http://www.cdc.gov/violenceprevention/acestudy/ace_brfss.html.

12. See generally *Successful Co-Parenting After Divorce*, FLA. ST. U., <http://coparenting.fsu.edu> (last visited Oct. 11 2019).

13. See generally INST. FOR FAMILY VIOLENCE STUDIES, FLA. STATE UNIV., EXECUTIVE SUMMARY: SUMMARY OF FINDINGS RELATED TO EFFICACY OF DIVORCE EDUCATION RELATIVE TO ACE DOMAINS & CO-PARENTING QUALITY (2019) [hereinafter EXECUTIVE SUMMARY], <https://familyvio.csw.fsu.edu/sites/g/files/upcbnu1886/files/ACEs%20%26%20Divorce%20Education.pdf>.

require a trauma-informed approach, providing trauma-informed training for judges, and conducting more trauma-informed studies of common court practices to make the court system more responsive to the public it serves.

II. Divorce Education and Parental Conflict

Over the past several decades, state governments have begun explicitly granting judges the authority to order divorcing parents of minor children to attend parenting education courses focused primarily on fostering healthy co-parenting relationships.¹⁴ Originally, states provided judges with the option to require divorcing parents to attend such courses according to the circumstances of each case.¹⁵ Later, some states began implementing universal requirements that all divorcing parents attend parenting education courses.¹⁶ The first such blanket requirement appeared in Kansas in the late 1980s; this type of provision spread rapidly throughout the country in the early- to mid-1990s.¹⁷ Since then, parenting education requirements for divorcing parents have continued to proliferate and have taken many forms across the country.

The emergence of parenting education requirements for divorcing parents came about in the context of a nationwide movement of family courts transitioning from an adversary model of conflict resolution to one premised on cooperation to

14. See Peter Salem et al., *Taking Stock of Parent Education in the Family Courts: Envisioning a Public Health Model*, 51 FAM. CT. REV. 131, 132-33 (2013).

15. *E.g.*, HAW. REV. STAT. § 571-46.2 (West, Westlaw through Act 286 of 2019 Reg. Sess.); KAN. STAT. ANN. § 23-3214 (West, Westlaw through 2019 Reg. Sess.).

16. *E.g.*, CONN. GEN. STAT. § 46b-69b(b) (Westlaw through 2019 Jan. Reg. Sess. and 2019 Jul. Spec. Sess.); UTAH CODE ANN. §30-3-11.3 (West, Westlaw through 2019 1st Spec. Sess.).

17. *E.g.*, CONN. GEN. STAT. §46b-69b(b) (Westlaw through 2019 Jan. Reg. Sess. and 2019 Jul. Spec. Sess.); UTAH CODE ANN. §30-3-11.3 (West through 2019 1st Spec. Sess.).

further the best interests of children¹⁸ and family members.¹⁹ This shift came about in part because of the harmful impact that the disruption of divorce can have on children.²⁰ In fact, divorce itself is considered an Adverse Childhood Experience (ACE) because of its potential for conflict, toxic stress, and turmoil in the child's relationship with the parents.²¹

Having both parents participate in co-parenting of children after the parents' intimate relationship has ended can promote the children's development and the parents' personal well-being.²² Children whose parents cannot cooperate with each

18. The Uniform Marriage and Divorce Act (UMDA) approved the "best interest standard," a case-by-case determination of what living arrangements would best meet the particular needs of the child involved in the divorce. *See generally* UNIF. MARRIAGE & DIVORCE ACT § 308 (NAT'L CONF. OF COMM'RS ON UNIF. STATE LAWS 1973).

19. Salem et al., *supra* note 14, at 131 (stating that parent education programs are being implemented in courts throughout the United States after a shift in the 1980s and '90s away from an adversary model in family law towards a more collaborative dispute resolution process).

20. UNIF. MARRIAGE & DIVORCE ACT, Prefatory Note (1973) (eliminating the notion of fault in divorce in an "effort to reduce the adversary trapping of marital litigation" by removing an "assignment of blame").

21. Elizabeth Crouch et al., *Prevalence of Adverse Childhood Experiences (ACEs) Among US Children*, 92 CHILD ABUSE & NEGLECT 209, 210 (2019) (stating that ACEs, including experiences of household dysfunction such as parental separation or divorce, may result in toxic stress); *see also* Paul R. Amato & Bruce Keith, *Parental Divorce and the Well-Being of Children: A Meta-Analysis*, 110 PSYCHOL. BULL. 26, 27 (1991) (arguing that divorce has a negative impact on children because of parental absence and conflict).

22. Paul R. Amato, *Research on Divorce: Continuing Trends and New Developments*, 72 J. MARRIAGE & FAM. 650, 655-67 (2010) (describing the prolonged impact of divorce on children and adults' well-being); Paul R. Amato, *The Consequences of Divorce for Adults and Children*, 61 J. MARRIAGE & FAM., 1269, 1277-80 (2000) (stating that children from divorced families often have lower academic achievement, social competence, and health than children with continuously married parents based upon comprehensive review of divorce research). For children, the ramifications of divorce include lower academic achievement years thereafter and psychological issues that can often rebound after the transition period; for adults, increased depression, anxiety, and substance abuse; for men, in particular, increased chronic health conditions and increased morbidity rate. *Id.* at 658; *see also* Bonnie L. Barber & David H. Demo, *The Kids Are Alright (at Least, Most of Them): Links Between Divorce and Dissolution and Child Well-Being*, in HANDBOOK OF DIVORCE AND RELATIONSHIP DISSOLUTION 289, 289-311 (M.A. Fine & J.H. Harvey eds., 2006). Children that experience divorce have lower academic achievement and educational attainment, are more likely to have conduct problems and psychological issues including depression, lower self-worth and self-esteem, and are more likely to engage in sexual behaviors at younger ages. *Id.* at 292-93. Divorce can also have a profound impact on parents, with mothers in

other can experience deep sadness and a range of negative emotions over the conflict.²³ A formal framework for post-divorce co-parenting originated in the concept of “stations of divorce”²⁴ in 1971. Under this conceptualization, the co-parental divorce refers to the parents’ continued, joint obligation toward raising their children after the end of their marital/romantic relationship.²⁵ The nature and quality of the parents’ post-divorce relationship can exert a profound effect on children. Co-parenting conflict has been associated with children’s economic, emotional, psychological, and social well-being.²⁶ It can also undermine the long-term quality of children’s relationships with their parents for decades.²⁷ Divorce education was developed to teach parents about these issues.²⁸ The movement toward cooperative models of dispute resolution encompassed more than just efforts to require divorce education. Other measures included policies supporting the mediation of disputes²⁹ so that

particular having increased financial issues and decreased standards of living. *See generally* Sanford L. Braver et al., *Consequences of Divorce for Parents*, in *HANDBOOK OF DIVORCE AND RELATIONSHIP DISSOLUTION* 313-37 (M.A. Fine & J. H. Harvey eds., 2006). Those who experience divorce are also more likely to experience a deterioration of positive parenting behaviors, including responsiveness and warmth. *Id.* at 327.

23. *See, e.g.*, Cristina Ortega, Book Note, *The Custody Wars: Why Children Are Losing the Legal Battle and What We Can Do About It*, 4 J. L. & FAM. STUD. 217 (2002) (describing the toll that parental disputes have on children).

24. Paul Bohannon, *The Six Stations of Divorce*, in *LOVE, MARRIAGE, FAMILY: A DEVELOPMENTAL APPROACH* 475, 475 (M. Lasswell & R. T. Lasswell, eds. 1973) (proposing six stations of divorce as means to understand the process of divorce: co-parental divorce; community divorce; economic divorce; emotional divorce; legal divorce; psychic divorce).

25. *Id.* at 484 (describing responsibilities and conditions of the co-parental station).

26. John H. Grych, *Interparental Conflict as a Risk Factor for Child Maladjustment: Implications for the Development of Preventions Programs*, 43 FAM. COURT R. 97, 99 (2005).

27. *See generally* Constance R. Ahrons, *Family Ties After Divorce: Long-Term Implications for Children*, 46 FAM. PROCESS 53 (2007).

28. Sanford L. Braver et al., *The Content of Divorce Education Programs: Results of a Survey*, 34 FAM. COURT. REV. 41, 42 (1996) (stating that divorce education is successful and helpful in teaching parents about children’s physical, social, and emotional needs).

29. *See generally* Jane C. Murphy, *Revitalizing the Adversary System in Family Law*, 78 U. CIN. L. REV. 891 (2010) (noting paradigm shift in the family court system characterized by a large increase in the use of alternative dispute resolution, particularly mediation).

parents could try to work out their parenting plans³⁰ without a judge.³¹ While much progress has been made to address and reduce conflict in co-parenting relationships in transition as a result of divorce, no states require parenting education courses to employ a trauma-informed curriculum that takes into account parents' own early trauma. Amending parenting education provisions to require approved courses to employ trauma-informed content is the next logical step to advance the interest of encouraging healthy families and co-parenting relationships in the face of the realities of divorce.

The statutes and court rules that provide statewide authority to require parenting education for divorcing parents have taken various forms across the thirty-four states in which they exist.³² In examining these different parenting education

30. Marsha Kline Pruett & J. Herbie DiFonzo, *Closing the Gap: Research, Policy, Practice, and Shared Parenting*, 52 FAM. COURT R. 152, 157-58 (2014) (asserting that parenting plans, as a means of achieving shared parenting resolutions, are part of the shift away from contested court hearings and towards methods of alternative dispute resolution).

31. State legislation also calls for the family court system to be more "user friendly." *See, e.g.,* Amato, *supra* note 22.

32. *See* ARIZ. REV. STAT. ANN. § 25-351 (Westlaw through 2019 1st Reg. Sess.); ARK. CODE ANN. § 9-12-322 (West, Westlaw through end of 2019 Reg. Sess.); COLO. REV. STAT. § 14-10-123.7(2) (West, Westlaw through end of 2019 Reg. Sess.); CONN. GEN. STAT. § 46b-69b(b) (Westlaw through 2019 Jan. Reg. Sess. and 2019 July Spec. Sess.); FLA. STAT. § 61.21 (West, Westlaw through 2019 1st Reg. Sess.); HAW. REV. STAT. § 571-46.2 (West, Westlaw through Act 286 of 2019 Reg. Sess.); IOWA CODE § 598.15 (Westlaw through 2019 Reg. Sess.); KAN. STAT. ANN. § 23-3214 (West, Westlaw through laws effective on or before July 1, 2019 enacted during 2019 Reg. Sess.); LA. STAT. ANN. § 9:331.2 (West, Westlaw through 2019 Reg. Sess.); MD. CODE ANN. FAM. LAW § 7-103.2 (West, Westlaw through 2019 Reg. Sess.); MINN. STAT. § 518.157 (Westlaw through legis. effective. Jan. 1, 2020 from 2019 Reg. Sess. and 1st Spec. Sess.); MO. REV. STAT. §§ 452.372, 452.605 (Vernon, Westlaw through end of 2019 1st Reg. Sess. and 1st Extraordinary Sess.); MONT. CODE ANN. § 40-4-226 (West, Westlaw through 2019 Sess.); NEB. REV. STAT. § 43-2928 (West, Westlaw through end of 2019 1st Reg. Sess.); N.H. REV. STAT. ANN. § 458-D:2 (Westlaw through ch. 345 of 2019 Reg. Sess.); N.J. STAT. ANN. § 2A:34-12.3 (Westlaw through 2019 Leg.); OHIO REV. CODE ANN. § 3109.053 (Baldwin, Westlaw through Files 1 to 18 of 2019-2020 Gen. Assemb.); 43 OKLA. STAT. § 107.2 (Westlaw through 2019 1st Reg. Sess.); OR. REV. STAT. § 3.425 (West, Westlaw through 2018 Reg. Sess. and Spec. Sess.); 23 PA. CONSOL. STAT. § 5332 (Purdon, Westlaw through 2019 Reg. Sess. Act 75); TENN. CODE ANN. § 36-6-408 (West, Westlaw through 2019 1st Extraordinary Sess.); TEX. FAM. CODE ANN. § 105.009 (Vernon, Westlaw through end of 2019 Reg. Sess.); UTAH CODE ANN. § 30-3-11.3 (West, Westlaw through 2019 1st Spec. Sess.); VA. CODE ANN. §§ 16.1-278.15, 20-103 (West, Westlaw through end of 2019 Reg. Sess.); W. VA. CODE § 48-9-104 (West, Westlaw through 2019 Reg. Sess.); WIS. STAT. § 767.401 (West, Westlaw

provisions, one should consider several important features of each: 1) whether the provision independently mandates attendance at a parenting education course or commits that decision to the presiding court's discretion; 2) in the absence of a mandate, whether the provision nonetheless reflects policymakers' preference for attendance at a parenting education course; and 3) whether the provision contains specifically enumerated subjects to be addressed in the curriculum of these courses.

Parenting education course requirements come in two principal categories. The first requires all divorcing parents to attend a parenting education course unless such attendance is excused by order of the presiding judge for good cause shown.³³ The second leaves the decision to require divorcing parents to attend a parenting education course to the discretion of the presiding judge based on the unique circumstances of each

through 2019 Act 5); WYO. STAT. ANN. § 20-2-201(f) (West, Westlaw through 2019 Gen. Sess.); DEL. FAM. CT. R. CIV. P. 16.4 (West, Westlaw through Sept. 15, 2019); GA. UNIF. SUPER. CT. R. 24.8 (West, Westlaw through Oct. 25, 2019); IDAHO R. FAM. L. P. 1001(C) (West, Westlaw through Oct. 1, 2019); ILL. SUP. CT. R. 924 (West, Westlaw through Sept. 25, 2019); IND. ST. CT. R. PARENTING § IV(2) (West, Westlaw through Aug. 15, 2019); ME. R. CIV. P. 107(a)(3) (Westlaw through Oct. 1, 2019); MD. R. FAM. L. ACTIONS 9-204 (West, Westlaw through Aug. 1, 2019); W. VA. R. FAM. CT. 37 (West, Westlaw through Oct. 15, 2019). Notably, at least one additional state has adopted a parenting education requirement with statewide applicability by way of a standing administrative order of its statewide probate and family court. *See* Mass. Prob. & Fam. Ct. Standing Order 2-16, Parent Education Program Attendance (effective May 1, 2016) (West, Westlaw through Aug. 1, 2019).

33. *See, e.g.*, TENN. CODE ANN. § 36-6-408(a) (West through 2019 1st Extraordinary Sess.) ("In an action where a permanent parenting plan is or will be entered, each parent shall attend a parent educational seminar as soon as possible after the filing of the complaint. . . . The requirement of attendance at such a seminar may be waived upon motion by either party and the agreement of the court upon the showing of good cause for such relief."); W. VA. CODE § 48-9-104(b) (West, Westlaw through 2019 Reg. Sess.) ("The family court shall issue an order requiring parties to an action for divorce involving a minor child or children to attend parent education classes established pursuant to subsection (a) of this section unless the court determines that attendance is not appropriate or necessary based on the conduct or circumstances of the parties."); W. VA. R. FAM. CT. 37(b) (West, Westlaw through Oct. 15, 2019) ("In proceedings involving minor children the parents shall be required to complete parent education, and shall file with the circuit clerk a certificate of completion. For good cause shown, parent education may be waived if the court places on the record a finding attendance is not necessary, and states the specific reasons for the finding.").

case.³⁴ As of this article's publication, only fourteen states have statewide provisions requiring all divorcing parents to attend approved parenting education courses.³⁵ Two additional states require attendance at a parenting education course only in divorces in which child custody, time-sharing, or support are contested.³⁶ In the remaining sixteen states with any sort of parenting education provision, judges are given discretion to order attendance at a parenting education course if the judge determines that it would be in the best interest of the children in that case.³⁷ Notably, in states with statewide provisions

34. See, e.g., 23 PA. CONSOL. STAT. § 5332(a) (Purdon, Westlaw through 2019 Reg. Sess. Act 75) ("The court may direct the parties to attend informational programs concerning parental duties."); IDAHO FAM. L. P. 1001(C) (West, Westlaw through Oct. 1, 2019) ("The court may order the parties to engage in parent education. The court may order supplemental or additional education, such as parenting skills classes and parental conflict resolution classes.").

35. See ARIZ. REV. STAT. ANN. § 25-351 (Westlaw through 2019 1st Reg. Legis. Sess.); CONN. GEN. STAT. § 46b-69b(b) (Westlaw through 2019 Jan. Reg. Sess. and 2019 July Spec. Sess.); FLA. STAT. § 61.21 (West, Westlaw through 2019 1st Reg. Sess.); IOWA CODE § 598.15 (Westlaw through 2019 Reg. Sess.); MO. REV. STAT. §§ 452.372, 452.605 (Vernon, Westlaw through end of 2019 1st Reg. Sess. and 1st Extraordinary Sess.); NEB. REV. STAT. § 43-2928 (West, Westlaw through end of 2019 1st Reg. Sess.); N.H. REV. STAT. ANN. § 458-D:2 (Westlaw through ch. 345 of 2019 Reg. Sess.); N.J. STAT. ANN. § 2A:34-12.3 (Westlaw through 2019 Legis.); 43 OKLA. STAT., § 107.2 (Westlaw through 2019 1st Reg. Sess.); TENN. CODE ANN. § 36-6-408 (West, Westlaw through 2019 1st Extraordinary Sess.); UTAH CODE ANN. § 30-3-11.3 (West, Westlaw through 2019 1st Spec. Sess.); W. VA. CODE § 48-9-104 (West, Westlaw through 2019 Reg. Sess.); DEL. FAM. CT. R. CIV. P. 16.4 (West, Westlaw through Sept. 15, 2019); ILL. SUP. CT. R. 924 (West, Westlaw through Sept. 25, 2019); W. VA. R. FAM. CT 37 (West, Westlaw through Oct. 15, 2019). In addition, Massachusetts requires attendance at parenting education courses by way of court administrative order. See Mass. Prob. & Fam. Ct. Standing Order 2-16, Parent Education Program Attendance (effective May 1, 2016) (West, Westlaw through Aug. 1, 2019).

36. See MINN. STAT. § 518.157 (Westlaw through legis. effective. Jan. 1, 2020 from 2019 Reg. Sess. and 1st Spec. Sess.); VA. CODE ANN. §§ 16.1-278.15; 20-103 (West, Westlaw through end of 2019 Reg. Sess.)

37. ARK. CODE ANN. § 9-12-322 (West, Westlaw through end of 2019 Reg. Sess.); COLO. REV. STAT. § 14-10-123.7(2) (West, Westlaw through end of 2019 Reg. Sess.); HAW. REV. STAT. § 571-46.2 (West, Westlaw through Act 286 of 2019 Reg. Sess.); KAN. STAT. ANN. § 23-3214 (West, Westlaw through laws effective on or before July 1, 2019 enacted during 2019 Reg. Sess.); LA. STAT. ANN. § 9:331.2 (West, Westlaw through 2019 Reg. Sess.); MD. CODE ANN. FAM. LAW § 7-103.2 (West, Westlaw through 2019 Reg. Sess.); MONT. CODE ANN. § 40-4-226 (West, Westlaw through 2019 Sess.); OHIO REV. CODE ANN. § 3109.053 (Baldwin, Westlaw through Files 1 to 18 of 2019-2020 Gen. Assemb.); 43 OKLA. STAT., § 107.2 (Westlaw through 2019 1st Reg. Sess.); OR. REV. STAT. § 3.425

granting discretion to judges, such provisions often set a floor rather than a ceiling.³⁸ In some of these instances, local jurisdictions have opted to implement local rules removing such discretion from judges in most cases and mandating that all divorcing parents attend parenting education courses.³⁹ In other words, even in states with statewide parenting education provisions that grant discretion in requiring attendance at such courses to judges' discretion, there is often a patchwork of mandatory-attendance provisions within the state created by local mandates with stricter attendance requirements than the statewide provision.⁴⁰

In addition to this dichotomy of structure, such requirements could be written to encourage—though not necessarily require—courts to order divorcing parents to attend parenting education courses by creating a rebuttable presumption in favor of attendance. Although no states currently appear to employ this approach, such a mechanism could be useful where the policymaking body—whether a legislative body or a judicial body acting in a policymaking role—wants to make clear its preference⁴¹ for divorcing parents' attendance at parenting education courses while recognizing the complexity of divorce cases by not tying the hands of judges.⁴² In

(West, Westlaw through 2018 Reg. Sess. and Spec. Sess.); 23 PA. CONSOL. STAT. § 5332 (Purdon, Westlaw through 2019 Reg. Sess. Act 75); TEX. FAM. CODE ANN. § 105.009 (Vernon, Westlaw through end of 2019 Reg. Sess.); WIS. STAT. § 767.401 (West, Westlaw through 2019 Act 5); WYO. STAT. ANN. § 20-2-201(f) (West, Westlaw through 2019 Gen. Sess.); GA. UNIF. SUPER. CT. R. 24.8 (West, Westlaw through Oct. 25, 2019); IDAHO FAM. L. P. 1001(C) (West, Westlaw through Oct. 1, 2019); IND. ST. CT. R. PARENTING § IV(2) (West, Westlaw through Aug. 15, 2019); ME. R. CIV. P. 107(a)(3) (Westlaw through Oct. 1, 2019); MD. R. FAM. L. ACTIONS 9-204 (West, Westlaw through August 1, 2019).

38. See, e.g., GA. UNIF. SUPER. CT. R. 24.8 (West, Westlaw through Oct. 25, 2019) (providing discretion to judicial circuits to establish parenting education programs and that circuit judges “may require any or all parties to attend” such courses); MD. CODE ANN. FAM. LAW § 7-103.2 (West, Westlaw through 2019 Reg. Sess.) (providing that the state's high court shall “establish criteria for exemption from the requirement that the parties participate in an educational seminar”).

39. See, e.g., LA. R. DIST. CT. App. 29.3.

40. *Id.*

41. Of course, legislatures often include a statement of legislative findings and policy statements at the beginning of an act. The inclusion of such a preference can serve to emphasize the legislature's intent.

42. One approach taken by policymakers in many jurisdictions in an attempt to strike such a compromise is to allow judges to excuse attendance

this context, it is important for policymakers and judges, in crafting and implementing parenting education requirements, to consider whether to mandate universal parenting education for all divorcing parents. Alternatively, policymakers may simply wish to give judges another tool to use in their discretion to facilitate cooperation among members of a family during a time of familial restructuring. When simply adding another judicial tool, policymakers and judges should consider including a presumption in favor of attendance at a parenting education course or an expression of the policymaker's view that attendance at parenting education courses for divorcing parents of minor children should be the norm.

Another important feature of parenting education provisions that should be considered by policymakers and courts is the inclusion of specific, enumerated curriculum requirements. Additionally, inclusion of specified (though not exhaustive) subject-matter areas to be addressed in course curricula should be mandatory rather than aspirational. As of this Article's publication, twenty-one states have parenting education requirements of statewide applicability that contain enumerated subject areas for inclusion in the curriculum of conforming courses.⁴³ In addition, whether parenting education

under mandatory provisions for good cause shown. *See* sources cited *supra* note 33.

43. ARIZ. REV. STAT. ANN. § 25-351 (Westlaw through 2019 1st Reg. Legis. Sess.); COLO. REV. STAT. § 14-10-123.7(2) (West, Westlaw through end of 2019 Reg. Sess.); CONN. GEN. STAT. § 46b-69b(b) (Westlaw through 2019 Jan. Reg. Sess. and 2019 July Spec. Sess.); FLA. STAT. § 61.21 (West, Westlaw through 2019 1st Reg. Sess.); IOWA CODE § 598.15(5) (Westlaw through 2019 Reg. Sess.); LA. STAT. ANN. § 9:331.2 (West, Westlaw through 2019 Reg. Sess.); MD. CODE ANN. FAM. LAW § 7-103.2 (West, Westlaw through 2019 Reg. Sess.); MINN. STAT. § 518.157 (Westlaw through legis. effective. Jan. 1, 2020 from 2019 Reg. Sess. and 1st Spec. Sess.); NEB. REV. STAT. § 43-2928 (West, Westlaw through end of 2019 1st Reg. Sess.); N.H. REV. STAT. ANN. § 458-D:3 (Westlaw through ch. 345 of 2019 Reg. Sess.); N.J. STAT. ANN. § 2A:34-12.3 (Westlaw through 2019 Legis.); 43 OKLA. STAT. § 107.2 (Westlaw through 2019 1st Reg. Sess.); OR. REV. STAT. § 3.425 (West, Westlaw through 2018 Reg. Sess. and Spec. Sess.); TENN. CODE ANN. § 36-6-408 (West, Westlaw through 2019 1st Extraordinary Sess.); TEX. FAM. CODE ANN. § 105.009 (Vernon, Westlaw through end of 2019 Reg. Sess.); UTAH CODE ANN. § 30-3-11.3 (West, Westlaw through 2019 1st Spec. Sess.); VA. CODE ANN. §§ 16.1-278.15, 20-103 (West, Westlaw through end of 2019 Reg. Sess.); W. VA. CODE § 48-9-104 (West, Westlaw through 2019 Reg. Sess.); WIS. STAT. § 767.401 (West, Westlaw through 2019 Act 5); GA. UNIF. SUPER. CT. R. 24.8 (West, Westlaw through Oct. 25, 2019); ILL. SUP. CT. R. 924 (West, Westlaw through Sept. 25, 2019); MD. R. FAM. L. ACTIONS 9-204 (West, Westlaw through Aug. 1, 2019); W. VA. R. FAM. CT. 37 (West, Westlaw through

course curriculum requirements are directory or precatory varies among states. Seventeen states direct that the outlined subject areas must be included in the course programming.⁴⁴ In four states, however, inclusion of the outlined topics in the course is merely recommended or offered as an option.⁴⁵ Provisions also vary widely with regard to the amount of specificity included for curriculum requirements and number of subject-matter areas to be included.⁴⁶

All parenting education course requirements should provide specific guidance as to what topics should be explored in course curricula. Moreover, such curricular requirements should

Oct. 15, 2019). In addition, Massachusetts has statewide curriculum requirements pursuant to its court administrative order. *See* Mass. Prob. & Fam. Ct. Standing Order 2-16, Parent Education Program Attendance (effective May 1, 2016) (West, Westlaw through Aug. 1, 2019).

44. ARIZ. REV. STAT. ANN. § 25-351 (Westlaw through 2019 1st Reg. Legis. Sess.); COLO. REV. STAT. § 14-10-123.7(2) (West, Westlaw through end of 2019 Reg. Sess.); CONN. GEN. STAT. § 46b-69b(b) (Westlaw through 2019 Jan. Reg. Sess. and 2019 July Spec. Sess.); ILL. SUP. CT. R. 924 (West, Westlaw through Sept. 25, 2019), IOWA CODE § 598.15(5) (Westlaw through 2019 Reg. Sess.); LA. STAT. ANN. § 9:331.2 (West, Westlaw through 2019 Reg. Sess.); MD. CODE ANN. FAM. LAW § 7-103.2 (West, Westlaw through 2019 Reg. Sess.); NEB. REV. STAT. § 43-2928 (West, Westlaw through end of 2019 1st Reg. Sess.); N.H. REV. STAT. ANN. § 458-D:3 (Westlaw through ch. 345 of 2019 Reg. Sess.); 43 OKLA. STAT., § 107.2 (Westlaw through 2019 1st Reg. Sess.); OR. REV. STAT. § 3.425 (West, Westlaw through 2018 Reg. Sess. and Spec. Sess.); TENN. CODE ANN. § 36-6-408 (West, Westlaw through 2019 1st Extraordinary Sess.); TEX. FAM. CODE ANN. § 105.009 (Vernon, Westlaw through end of 2019 Reg. Sess.); UTAH CODE ANN. § 30-3-11.3 (West, Westlaw through 2019 1st Spec. Sess.); VA. CODE ANN. §§ 16.1-278.15, 20-103 (West, Westlaw through end of 2019 Reg. Sess.); W. VA. CODE § 48-9-104 (West, Westlaw through 2019 Reg. Sess.); GA. UNIF. SUPER. CT. R. 24.8 (West, Westlaw through Oct. 25, 2019); ILL. SUP. CT. R. 924 (West, Westlaw through Sept. 25, 2019); MD. R. FAM. L. ACTIONS 9-204 (West, Westlaw through Aug. 1, 2019); W. VA. FAM. CT. R. 37 (West, Westlaw through Oct. 15, 2019).

45. FLA. STAT. § 61.21 (West, Westlaw through 2019 1st Reg. Sess.); MINN. STAT. § 518.157 (Westlaw through legis. effective. Jan. 1, 2020 from 2019 Reg. Sess. and 1st Spec. Sess.); N.J. STAT. ANN. § 2A:34-12.3 (Westlaw through 2019 Legis.); WIS. STAT. § 767.401 (West, Westlaw through 2019 Act 5).

46. *Compare* COLO. REV. STAT. § 14-10-123.7(3) (West, Westlaw through end of 2019 Reg. Sess.) (providing that approved programs “shall inform parents about the divorce process and its impact on adults and children and shall teach parents co-parenting skills and strategies so that they may continue to parent their children in a cooperative manner.”), *with* FLA. STAT. § 61.21(2)(a) (West, Westlaw through 2019 1st Reg. Sess.) (providing that an approved course “may include, but need not be limited to,” seven specific listed subject-matter areas), *and* N.H. REV. STAT. ANN. § 458-D:3(II) (Westlaw through ch. 345 of 2019 Reg. Sess.) (providing five specific listed subject-matter areas to be included in approved courses).

require courses to present material employing a trauma-informed approach. Although these lists should not be exhaustive, policymakers should provide meaningful guidance to judges. Those who design parenting education courses should highlight subject-matter areas that are of particular concern in their state or region. Failing to provide such guidance could result in strikingly different material being taught to divorcing parents in neighboring counties or even adjacent courtrooms. It is true that litigants in different regions of the country, or with differing cultural backgrounds, may have different needs as far as subject-matter to be discussed during a parenting education course. Still, parenting education course provisions should include a minimum set of subject-matter areas to be included in courses. These could be expanded to adequately meet the needs of individual litigants or groups.

III. Judicial Responses to the Science of ACEs

As legislators and judges work to improve co-parents' cooperation with divorce education, the court system has also begun to respond to over two decades of research linking people's early life trauma (ACEs)⁴⁷ to adult physical and behavioral health problems. The original ACEs study by Dr. Vincent Felitti and Dr. Robert Anda in 1998,⁴⁸ followed by numerous subsequent studies with similar outcomes,⁴⁹ found that the

47. Nat'l Ctr. for Injury Prevention and Control, Div. of Violence Prevention, *supra* note 11 (describing prevalence of ACEs in surveyed adults).

48. See Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults*, 14 AM. J. PREVENTATIVE MED. 245, 251 (1998) (identifying a graded relationship between the number of different experiences of abuse or household dysfunction in childhood and health risk in adulthood).

49. See, e.g., AM. ACAD. OF PEDIATRICS, ADVERSE CHILDHOOD EXPERIENCES AND THE LIFELONG CONSEQUENCES OF TRAUMA (2014), https://www.aap.org/en-us/Documents/ttb_aces_consequences.pdf (stating that the link between adverse childhood experiences and physical and mental health problems in adulthood, proposed by the original ACE study, continues to be supported by subsequent research); see also C. Benjet et al., *Descriptive Epidemiology of Chronic Childhood Adversity in Mexican Adolescents*, 45 J. ADOLESCENT HEALTH 483 (2016) (studying "the prevalence of adversity" among Mexican adolescents); T. N. Brockie et al., *The Relationship of Adverse Childhood Experiences to PTSD, Depression, Poly-Drug Use and Suicide Attempt in Reservation-based Native American Adolescents and Young Adults*, 55 AM. J. COMMUNITY PSYCHOL. 411 (2015); A. Giovanelli et al., *Adverse Childhood*

greater an individual's exposure to serious childhood adversity, the greater the likelihood of poor physical, mental, and behavioral health outcomes for that individual.⁵⁰ ACEs include physical and emotional neglect; physical and emotional abuse; sexual abuse; the loss of a parent through death, separation, or divorce; and domestic violence.⁵¹ They also include having an incarcerated parent, a parent with mental illness, or a caregiver who abuses alcohol or drugs.⁵²

In analyzing the impact of ACEs, research indicates a dose-response relationship: as the number of traumatic experiences increases, the risk for negative impacts on individual functioning is greater.⁵³ Specifically, researchers have found that as the number of ACEs increases, so does the risk for adult chronic health conditions,⁵⁴ mental illness,⁵⁵ health-risk behaviors such as substance abuse,⁵⁶ both criminal offending

Experiences and Adult Well-Being in Low-Income, Urban Cohort, 137 PEDIATRICS 1 (2016) (ACEs study with low-income minority population in Chicago); A. L. Goncalves Soares et al., *Adverse Childhood Experiences: Prevalence and Related Factors in Adolescents of a Brazilian Birth Cohort*, 51 CHILD ABUSE & NEGLECT 21 (2016); Karen Hughes et al., *Relationships Between Adverse Childhood Experiences and Adult Mental Wellbeing: Results from an English National Household Survey*, 16 BMC PUB. HEALTH 222 (2016).

50. See Felitti et al., *supra* note 48.

51. *About the CDC-Kaiser ACE Study*, CTRS. FOR DISEASE CONTROL AND PREVENTION 2, (April 2, 2019), <https://www.cdc.gov/violenceprevention/childabuseandneglect/acestudy/about.html> (defining types of ACEs and broader categories each ACE fits into, namely abuse, household challenges, and neglect).

52. *Id.*

53. Valeria J. Edwards et al., *Relationship between Multiple Forms of Childhood Maltreatment and Adult Mental Health in Community Respondents: Results from the Adverse Childhood Experiences Study*, 160 AM. J. OF PSYCHIATRY 1453, 1458 (2003).

54. Jack P. Shonkoff & Andrew S. Garner, *The Lifelong Effects of Early Childhood Adversity and Toxic Stress*, 129 AM. ACAD. PEDIATRICS e232, e235-36 (2012).

55. Joshua P. Mersky et al., *Impacts of Adverse Childhood Experiences on Health, Mental Health, and Substance Use in Early Adulthood: A Cohort Study of an Urban Minority Sample in the U.S.*, 37 CHILD ABUSE & NEGLECT 917, 923 (2013); Joshua P. Mersky & Colleen E. Janczewski, *Racial and Ethnic Differences in the Prevalence of Adverse Childhood Experiences: Findings from a Low-Income Sample of U.S. Women*, 76 CHILD ABUSE & NEGLECT 480, 482 (2018).

56. See Shanta R. Dube et al., *Adverse Childhood Experiences and Personal Alcohol Abuse as an Adult*, 27 ADDICTIVE BEHAVS. 713, 720-24 (2002) (finding that ACEs have been identified as predictors of alcohol abuse in adulthood); Tara W. Strine et al., *Associations Between Adverse Childhood*

and victimization,⁵⁷ and even premature death.⁵⁸ The impact of ACEs and its increased risk for tragic outcomes is linked to infant and childhood brain development, when hormones including cortisol flood the child's brain during times of sustained maltreatment or traumatic experiences.⁵⁹ These hormonal responses cause inflammation and can compromise the brain's structure by interfering with the development of neural connections.⁶⁰ This interference with normal human development can compromise the immune system⁶¹ as well as parts of the brain that control individuals' ability to manage their emotions, impulses, and decision-making.⁶²

These negative impacts can be intergenerational.⁶³ Many

Experiences, Psychological Distress, and Adult Alcohol Problems, 36 AM. J. HEALTH BEHAV. 408 (2012) (“[I]t may be important to identify early childhood trauma and adult psychological distress in programs that focus on reducing alcohol misuse and abuse.”).

57. Michael T. Baglivio et al., *The Relationship Between Adverse Childhood Experiences (ACE) and Juvenile Offending Trajectories in a Juvenile Offender Sample*, 43 J. CRIM. JUST. 229, 230, 235 (2015) (studying the proportion of arrests of youths who “endured a high number of ACEs”); see also Bryanna Fox et al., *Trauma Changes Everything: Examining the Relationship Between Adverse Childhood Experiences and Serious, Violent and Chronic Juvenile Offenders*, 46 CHILD ABUSE & NEGLECT 163, 170 (2015) (stating the more ACEs a child faces the more likely they are to commit more serious, violent, and chronic crimes).

58. See Melissa T. Merrick et al., *Unpacking the Impact of Adverse Childhood Experiences on Adult Mental Health*, 69 CHILD ABUSE & NEGLECT 10, 11 (2017) (explaining that ACEs can affect mental health, and contribute to premature death, including through their impact on mental health).

59. Christine Heim & Charles B. Nemeroff, *The Role of Childhood Trauma in the Neurobiology of Mood and Anxiety Disorders: Preclinical and Clinical Studies*, 49 BIOLOGICAL PSYCHIATRY 1023, 1029 (2001); see Shonkoff & Garner, *supra* note 54.

60. See Andrea Danese & Bruce S. McEwen, *Adverse Childhood Experiences, Allostasis, Allostatic Load, and Age-related Disease*, 106 PHYSIOLOGY & BEHAV. 29, 31 (2012) (stating that trauma from ACEs likely change the underlying physiology of one's body).

61. Sarah B. Johnson et al., *The Science of Early Life Toxic Stress for Pediatric Practice and Advocacy*, 131 PEDIATRICS 319, 320 (2013) (describing the impact of stress hormones on the developing brain).

62. Richard J. Davidson & Bruce S. McEwen, *Social Influences on Neuroplasticity: Stress and Interventions to Promote Well-Being*, 15 NATURE NEUROSCIENCE 689, 692 (2012) (explaining that stress from early life experiences can result in aggression and poor impulse control and executive functioning due to changes in brain circuitry).

63. Merrick et al., *supra* note 58, at 10 (stating that exposure to early adversity can compromise lifelong and intergenerational health and wellness).

researchers have concluded that trauma can be cyclical,⁶⁴ as parents inflict similar abuse on their own children or are incapable of fully protecting their children because they are so impaired by their own unresolved trauma.⁶⁵ As the evidence regarding the prevalence of childhood trauma⁶⁶ and the potentially devastating impact of childhood adversity on adult well-being has reached communities and policymakers, ACEs have been deemed a public health issue.⁶⁷ In response, a number of systems—including medical, criminal justice, child welfare, and social services—have responded to the reality of widespread, intergenerational trauma in the population by making changes to become “trauma informed.”⁶⁸ The term refers to relying on

64. Katherine C. Pears & Deborah M. Capaldi, *Intergenerational Transmission of Abuse: A Two-Generational Prospective Study of an At-Risk Sample*, 25 CHILD ABUSE & NEGLECT 1439, 1443 (2001) (finding that parents abused in childhood were significantly more likely to be abusive towards their own children); see also Mark Assink et al., *The Intergenerational Transmission of Child Maltreatment: A Three-Level Meta-Analysis*, 84 CHILD ABUSE & NEGLECT 131, 139 (2018) (finding that child maltreatment is almost three times more likely to occur in families of parents who experienced child maltreatment themselves than in families where the parents had not).

65. Rebecca L. Babcock Fenerci et al., *Intergenerational Transmission of Trauma-Related Distress: Maternal Betrayal Trauma, Parenting Attitudes, and Behaviors*, 25 J. AGGRESSION, MALTREATMENT & TRAUMA 382, 383 (2016); See also Danya Glaser, *Child Abuse and Neglect and the Brain—A Review*, 41 J. CHILD PSYCHOL. & PSYCHIATRY 97, 98, 109 (2000) (concluding that unresolved trauma increases the likelihood of a repeated cycle of violence and that some parents with high exposure to ACEs may be more likely to neglect or abuse their children if they are not given the opportunity to heal from their traumatic experiences); Ellen Kolomeyer et al., *Mothers' Adverse Childhood Experiences and Negative Parenting Behaviors*, 37 ZERO TO THREE 5, 5-6 (2016).

66. Felitti et al., *supra* note 48, at 255 (noting that the original ACE study found that more than half of participants reported at least one ACE and one in five participants reported three or more ACEs); see also Melissa T. Merrick et al., *Prevalence of Adverse Childhood Experiences from the 2011-2014 Behavioral Risk Factor Surveillance System*, 172 JAMA PEDIATRICS 1038 (2018) (finding that childhood adversity is common, with 62% of adults reporting having one ACE and 25% reporting having three or more, similar to the results of the original ACE study).

67. Merrick et al., *supra* note 58, at 10 (“The relationship between childhood adversity and mental health is [a public health issue] . . . due to both the magnitude and effects of mental illness in adulthood”); see also Maria M. Llabre et al., *Childhood Trauma and Adult Risk Factors and Disease in Hispanics/Latinos in the US: Results from the Hispanic Community Health Study/Study of Latinos (HCHS/SOL) Sociocultural Ancillary Study*, 79 PSYCHOSOMATIC MED. 172, 178 (2017) (stating that the common occurrence of ACEs in US Hispanic/Latinos is a public health concern).

68. See, e.g., Susan J. Ko et al., *Creating Trauma-Informed Systems:*

evidence-based practices, ensuring that all staff are being trained on the dynamics of trauma, learning how those who have suffered trauma may use maladaptive coping mechanisms,⁶⁹ and working to avoid re-traumatizing clients.⁷⁰ This approach also emphasizes greater problem-solving that attempts to prevent trauma from being passed on from one generation to the next.⁷¹

Researchers have highlighted the need for a variety of professionals to learn about trauma-informed practices. Among these are medical professionals,⁷² social workers,⁷³ child welfare professionals,⁷⁴ and criminal justice personnel.⁷⁵ Judges have

Child Welfare, Education, First Responders, Health Care, Juvenile Justice, 39 PROF. PSYCHOL. 396, 398 (2008) (stating that a variety of systems, including health, mental health, education, child welfare, first responder, and criminal justice systems can help traumatized individuals and assist with recovery).

69. Arielle Ered et al., *Coping as a Mediator of Stress and Psychotic-Like Experiences*, 43 EUR. PSYCHIATRY 9, 12 (2017) (stating that maladaptive coping strategies in response to trauma and perceived levels of stress include substance use, denial, and self-blame).

70. See Sarah Katz & Deeya Haldar, *The Pedagogy of the Trauma-Informed Lawyer*, 22 CLINICAL L. REV. 359, 369 (2016) (stating that a trauma-informed approach requires staff to understand the effects of trauma in order to reduce the likelihood of retraumatization during service provision).

71. Ed Finkel, *Trauma-Informed Judges Take Gentler Approach, Administer Problem-Solving Justice to Stop Cycle of ACEs*, ACES TOO HIGH NEWS (September 24, 2014), <https://acestoohigh.com/2014/09/24/trauma-informed-judges-take-gentler-approach-administer-problem-solving-justice-to-stop-cycle-of-aces/> (describing a judge's reaction to learning ACEs are like a switch being flipped).

72. See, e.g., Sean Price, *What You Need to Know About ACEs*, 113 TEX. MED. 53, 54 (2017), <https://www.texmed.org/WhatToKnowAboutACEs/> (presenting scenarios to physicians about childhood trauma and their intergenerational links).

73. Glynnis Dykes, *Phronesis and Adverse Childhood Experiences of Social Work Students*, 24 SOC. WORK PRAC.-RESEARCHER 331, 345 (2012) (stating that ACEs could be affecting the majority of social work students and that the impact on the student should not be ignored); see also Jacky T. Thomas, *Adverse Childhood Experiences Among MSW Students*, 36 J. TEACHING SOC. WORK 235, 243 (2016).

74. Children's Bureau, Admin. for Children & Families, U.S. Dep't of Health & Human Servs., *Trauma Informed Practice*, CHILD WELFARE INFORMATION GATEWAY, <https://www.childwelfare.gov/topics/responding/trauma/> (last visited Nov. 18, 2019) (discussing how to build a trauma-informed child welfare system and stating that to be able to provide trauma-informed care to children and families, professionals must understand the impact of trauma on child development and learn to minimize its effects without causing additional trauma).

75. See, e.g., ILL. ACES RESPONSE COLLABORATIVE, HEALTH & MED. POLICY RESEARCH GRP., JUSTICE BRIEF: JUVENILE AND CRIMINAL JUSTICE SYSTEMS 8-14

also begun to respond to the call for trauma-informed services, recognizing that courthouses and courtrooms can be a place of stress and fear for litigants who have already suffered from trauma.⁷⁶

The National Council of Juvenile and Family Court Judges, a leader in advocating for the court system to become trauma-informed, provides a “court trauma audit” which reviews court operations and finds ways to reduce unnecessary stress caused by the court environment.⁷⁷ Many court features and structures can be changed to accommodate litigants and members of the public in a way that is sensitive to the trauma that many have experienced. Examples are offering private “safe” spaces such as wellness and prayer rooms in courthouses and adding kiosks that offer a place to sign-in for services to reduce confusion and waiting times.⁷⁸ Courthouses can also offer videos to help users navigate a complex set of departments, and even alter the court entrance to furnish a more relaxed environment.⁷⁹ The need for professional training has also been emphasized. The federal Substance Abuse and Mental Health Services Administration (SAMHSA) created a training for judges to help them understand the impact of prior trauma on court participants.⁸⁰ Specifically, SAMHSA reminds judges that the effects of trauma may not emerge until months or even years after a tragic event and that trauma is common among participants in the criminal

(2018), <http://d3s8k6ajh82rah.cloudfront.net/wp-content/uploads/2018/07/Justice-Policy-Brief.pdf> (providing policy recommendations to mitigate and counter the impact of ACEs on juveniles and the criminal justice system).

76. Neal, *supra* note 4.

77. Marsh & Beckett, *supra* note 5.

78. SUSAN WELLS & JENIFER URFF, NAT’L ASS’N OF STATE MENTAL HEALTH PROGRAM DIRS., ESSENTIAL COMPONENTS OF TRAUMA-INFORMED JUDICIAL PRACTICE: WHAT EVERY JUDGE NEEDS TO KNOW ABOUT TRAUMA 1, 9 (2013), https://www.nasmhpd.org/sites/default/files/DRAFT_Essential_Components_of_Trauma_Informed_Judicial_Practice.pdf (2013) (stating that modifying the physical environment to increase sense of safety is an example of trauma-informed judicial practice, and that scheduling information should be clearly provided so that individuals know what to expect); A.M. Stone, *Sheriff’s Office Unveils New Interview Room for Victims*, LOGAN BANNER (Dec. 12, 2018), https://www.loganbanner.com/news/sheriff-s-office-unveils-new-interview-room-for-victims/article_67eee7bc-fdae-11e8-b71e-2b456f8014b0.html.

79. Neal, *supra* note 4.

80. Wells & Urff, *supra* note 78, at 1 (stating that an understanding of the impact of trauma among judges can lead to more successful interactions and outcomes with court participants).

justice and child welfare system.⁸¹ The Administration also points out that defendants ordered to attend treatment may engage in behavior that others might consider self-destructive, but which represents a coping mechanism to deal with the physical and emotional impact of past trauma.⁸² In a guide produced by the Office of Victims of Crime,⁸³ judges are reminded of the prevalence of ACEs and the danger of increasing the trauma of court participants if judges do not practice a trauma-informed approach. The guide also suggests that courts supply simple conveniences such as snacks and tissues and that judges consider stepping down from the bench to be on the same level as court participants.⁸⁴ Other advice to judges from the American Bar Association encourages criminal court judges to place more emphasis on alternatives to prison, such as community services, home detention, and graduated sanctions.⁸⁵

81. *Id.* at 3 (“The adverse effects of trauma may occur immediately, but often they emerge months or even years after the events.”); TRAUMA & JUSTICE STRATEGIC INITIATIVE, SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., SAMHSA’S CONCEPT OF TRAUMA AND GUIDANCE FOR A TRAUMA-INFORMED APPROACH 2, 3 (2014), <https://store.samhsa.gov/system/files/sma14-4884.pdf> (stating that people in the criminal justice and child welfare systems experience similarly high rates of trauma and related behavioral health problems).

82. Wells & Urff, *supra* note 78, at 1.

83. U.S. Dep’t of Justice Office of Justice Programs, *supra* note 6.

84. *Id.*; Tressel Carter, *Judging, Not Judging: Trauma-Informed Courts*, OPEN MINDS (Dec. 2, 2017) <https://www.openminds.com/market-intelligence/executive-briefings/judging-not-judging-trauma-informed-courts/> (honoring a judge for her work on creating a “trauma-informed” court); LouAnna Campbell, *Smith County Family Court Judge Retires, Work With Trauma-informed Care to Continue*, TYLER MORNING TELEGRAPH (Dec. 30, 2018) https://tylerpaper.com/news/local/smith-county-family-court-judge-retires-work-with-trauma-informed/article_e6ef9b1a-0470-11e9-8828-6f083df3d843.html (describing retiring judge who put trauma-informed practices in place in her courtroom, and insisted that child protective services caseworkers and family law lawyers learn about childhood trauma and its effect of adulthood addictions).

85. Renee VandenWallBake, *Considering Childhood Trauma in the Juvenile Justice System: Guidance for Attorneys and Judges*, A.B.A. (Nov. 01, 2014), https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol_32/november-2013/considering-childhood-trauma-in-the-juvenile-justice-system—gui/ (“By incorporating a trauma-informed approach, the juvenile justice system ensures that children who have experienced trauma are empowered to heal, avoid retraumatization and the over-criminalization of this population, while also serving the needs and interests of the community.”).

As courts grapple with the long-term risks presented by ACEs, judges and administrators across the country are examining the programs and processes of the court system and adjusting them to reflect new understandings of the impact of ACEs. Researchers have noted that people who experience high levels of trauma during childhood have a much higher risk of turning to substance misuse in adulthood.⁸⁶ People who are victims of violent crime are at more risk of significant behavioral health problems and mental illness.⁸⁷ Thus, many criminal court judges have realized that defendants in drug courts (or treatment courts,⁸⁸ as they are sometimes called) have suffered trauma earlier in their lives. Likewise, criminal judges are aware that victims in criminal cases often suffer from trauma from being victims of crime.⁸⁹ In addition, certain personnel who routinely interact with the court system are beginning to receive training on ACEs: e.g., child advocacy center staff,⁹⁰ police officers,⁹¹ guardians ad litem,⁹² probation and parole

86. Kelly Quinn et al., *The Relationships of Childhood Trauma and Adulthood Prescription Pain Reliever Misuse and Injection Drug*, 169 DRUG ALCOHOL DEPENDENCE 190, 191 (2016) (explaining that for those who have experienced higher levels of trauma during childhood, it is increasingly common for them to turn to substance misuse and dependence in adulthood).

87. Su-Yin Tan & Robert Haining, *Crime Victimization and the Implications for Individual Health and Wellbeing: A Sheffield Case Study*, 167 SOC. SCI. MED. 128, 137-38 (2016) (discussing that among the households in the study, those who had been victim to violent crime were at higher odds of significant psychological or behavioral health issues).

88. Michael S. Rodi et al., *Best Practices in Treatment Court Evaluation*, 82 FED. PROB. 21, 21 (2008) (stating that drug treatment courts are also referred to as drug courts).

89. See generally KAREN JOHNSON, NAT'L COUNCIL FOR BEHAVIORAL HEALTH, THE URGENCY TO ADDRESS TRAUMA IN OUR TREATMENT COURTS: WHAT IT MEANS TO BE TRAUMA-INFORMED (2016), <https://www.american.edu/spa/jpo/videos/upload/Trauma-Webinar-Presentation-2.pdf>.

90. Maureen C. Kenny et al., *Implementation and Evaluation of Trauma-Informed Care Training Across State Child Advocacy Centers: An Exploratory Study*, 73 CHILD. & YOUTH SERVS. REV. 15, 15 (2017) ("Awareness of trauma-informed care (TIC) is essential for all professionals employed at child advocacy centers.").

91. See *Trauma Informed Sexual Assault Investigation Training*, INT'L ASS'N OF CHIEFS OF POLICE, <https://www.theiacp.org/projects/trauma-informed-sexual-assault-investigation-training> (last visited Oct. 22 2019) (stating that training at a two-day police conference "provides law enforcement and multi-disciplinary community partners with information on the neurobiology of trauma and investigative strategies to respond to sexual assault crimes in a victim-centered, trauma informed manner").

92. The guardian ad litem programs have a variety of trainings on

authorities,⁹³ and victim advocates.⁹⁴ Researchers have emphasized that trauma-informed changes do not require judges to become social workers or therapists. Instead, an understanding of ACEs and the impact of trauma allows judges to make small adjustments that can improve litigant and family outcomes.⁹⁵

While judges across the nation have mandated, recommended, or suggested divorce education classes for parents for over two decades, no state currently requires that the curriculum employ a trauma-informed approach.⁹⁶ This oversight⁹⁷ prevents parents from having the opportunity to

trauma. *E.g.*, Robert T. Noone, Training Handout, The Trauma-Informed Guardian Ad Litem (2017), <http://www.courtswwv.gov/public-resources/CAN/2017GAL-training/Trauma-Informed-Lawyer.pdf>; Office of Court Improvement, Florida Courts, Workshop Handout, Trauma Responsive Practices: Guardians Ad Litem, <https://www.flcourts.org/content/download/404793/3636341/practical-trauma-tips-for-GALs.pdf> (last visited Nov. 18, 2019); *see generally* Fla. Guardian Ad Litem, *Trauma Informed Advocacy Group*, GUARDIAN AD LITEM FOR CHILD., <https://guardianadlitem.org/training-advocacy-resources/workgroups/trauma-informed-advocacy-workgroup/> (last visited Nov. 18, 2019).

93. *See, e.g.*, NAJAH BARTON & RANDI LOSAULU, ASS'N OF PAROLING AUTHORITIES INT'L, VICTIM SERVICES BEST PRACTICE GUIDE FOR PAROLE BOARD CHAIRPERSONS AND MEMBERS 23-24 (2018) http://www.apaintl.org/resources/documents/publications/victims_services_best_practices.pdf (providing guidance for integrating trauma-informed care in post-conviction victim services); *see also* Jeff Hawkes, *Trauma-Informed Training for Lancaster County Corrections and Parole Officers Seeks Less Use of Force*, LANCASTER ONLINE (Apr. 25, 2017), https://lancasteronline.com/news/local/trauma-informed-training-for-lancaster-county-corrections-and-parole-officers/article_dfc9a524-292f-11e7-b008-8f12e2682c1f.html; *American Probation and Parole Association 2019 44th Annual Training Institute*, NAT'L TRAINING AND TECHNICAL ASSISTANCE CTR. (advertising training program including "culturally competent and trauma-informed service delivery") <https://bjatta.bja.ojp.gov/media/event/american-probation-and-parole-association-2019-44th-annual-training-institute> (last visited Nov. 18, 2019). Florida courts provide a handout for trauma-informed juvenile probation officers. *See* Office of Court Improvement, Florida Courts, Workshop Handout, Trauma Responsive Practices: Juvenile Probation Officers, <https://www.flcourts.org/content/download/404794/3636347/practical-trauma-tips-for-JPOs.pdf> (last visited Nov. 18, 2019).

94. *See* Barton & Losaulu, *supra* note 93; Hawkes, *supra* note 93; NAT'L TRAINING AND TECHNICAL ASSISTANCE CENTER, *supra* note 93.

95. *See generally* sources cited *supra* notes 90-94.

96. For a review of requirements for divorce co-parent education, see Appendix, *infra*.

97. *See* Karen Oehme et al., *Trauma-Informed Co-Parenting: How a Shift in Compulsory Divorce Education to Reflect New Brain Development Research*

learn about the impact of trauma, and ignores the fundamental need to break the cycle of trauma and even create opportunities for improvements in parenting. Studies have shown that those who have suffered high levels of trauma are less likely to be responsive to children's emotional needs than those who have experienced low levels of trauma across their lifetime.⁹⁸ In addition, if early life traumas are not resolved, the later stress caused by upheavals such as divorce can cause further deterioration in individual wellness.⁹⁹

Although the results of trauma can be serious and devastating, the Centers for Disease Control, along with a growing body of research, has provided evidence that the human brain can heal from trauma. Advances in knowledge regarding neuroplasticity¹⁰⁰ show that the brain can change over time¹⁰¹ and that positive stimulation promotes brain development throughout an individual's life.¹⁰² This suggests that steps can be taken to reduce impairments resulting from trauma and to

Can Promote Both Parents' and Children's Best Interests, 39 U. HAW. L. REV. 37, 59 (2016) (advocating for divorce education to include information about trauma).

98. Annelise Cunningham & Kimberly Renk, *Parenting in the Context of Childhood Trauma: Self-Efficacy as a Mediator between Attributions and Parenting Competence*, 27 J. CHILD & FAM. STUD. 895, 897 (2018) (finding that mothers who have experienced sexual trauma in early life are more likely to engage in harsh parenting behaviors and less likely to engage in sensitive caregiving behaviors that are responsive to children's developmental needs); see also Bharathi J. Zvara et al., *Childhood Sexual Trauma and Subsequent Parenting Beliefs and Behaviors*, 44 CHILD ABUSE & NEGLECT 87, 94 (2015).

99. See Leonard L. Pearlin et al., *Stress, Health, and the Life Course: Some Conceptual Perspectives*, 46 J. HEALTH & SOC. BEHAV. 205, 209-11 (2005) (concluding that early life traumas may spur on the proliferation of stressors, both in related and unrelated domains of life, such that the impact of the traumas is indirectly felt in later life as newfound stressors that emerged in the aftermath of the trauma manifest in deteriorated individual functioning).

100. See Leeanne Carey et al., *Finding the Intersection of Neuroplasticity, Stroke Recovery, and Learning: Scope and Contributions to Stroke Rehabilitation*, 2019 NEURAL PLASTICITY 1, 2 (2019) ("Neuroplasticity can be defined as the ability of the nervous system to respond to intrinsic or extrinsic stimuli by reorganizing its structure, function, and connections.").

101. See *id.* (stating that neural plastic changes occur throughout the lifespan); see also Davidson & McEwan, *supra* note 62.

102. See Joyce Shaffer, *Neuroplasticity and Clinical Practice: Building Brain Power for Health*, 7 FRONTIERS IN PSYCHOL. 1, 2 (2016) (arguing that in 1971, Marian Diamond caused a paradigm shift within the scientific community by being the first to prove that in an enriched environment, the brain will grow at any age).

improve functioning.¹⁰³ Factors that promote such changes include supportive relationships¹⁰⁴ and psychosocial interventions.¹⁰⁵

IV. Educating Parents about Trauma: A Needed Component of Training in Successful Co-Parenting after Divorce

A university-based, free online co-parenting curriculum called Successful Co-Parenting After Divorce¹⁰⁶ offers parents the ability to access a free, evidence-based, interactive curriculum. The course satisfies the mandate in Florida that all parents with underage children take a co-parenting course.¹⁰⁷ The course offers activities, videos, and written content to encourage parents to manage stress; focus on their children's adjustment to divorce; learn about the impact parental conflict can have on children; and communicate with each other in respectful, cooperative ways.¹⁰⁸ Those who are experiencing domestic violence, however, are excluded from the course because co-parenting is not a solution to violence and perpetrators often abuse their power over the victimized parent in the relationship.¹⁰⁹ Parents are invited to voluntarily

103. See Carey et al., *supra* note 100 (stating that evidence of neural plastic changes can be seen in behavioral changes including increased skill and adaptability).

104. See Shaffer, *supra* note 102, at 2, 6 (arguing that love is one of the most important factors in driving positive brain plasticity).

105. Am. Psychol. Ass'n 2008 Presidential Task Force on Posttraumatic Stress Disorder & Trauma in Children & Adolescents, *Children and Trauma: Update for Mental Health Professionals*, AM. PSYCHOL. ASS'N, <https://www.apa.org/pi/families/resources/children-trauma-update> (last visited Nov. 18, 2019) (stating that cognitive-behavioral therapy (CBT) and other evidenced based, trauma-focused treatments have been shown to promote adaptation and reduce serious trauma reactions).

106. *Successful Co-Parenting After Divorce*, FLA. STATE UNIV., <https://coparenting.fsu.edu/> (last visited Nov. 18, 2019) (an open-access, free co-parenting course).

107. FLA. STAT. § 61.21 (West, Westlaw through 2019 1st Reg. Sess.) requires that both parents involved in a divorce must take a four-hour parenting course if they have children under eighteen years old.

108. The course explicitly notes that it is not for families that have experienced domestic violence.

109. See *A Note About Violence*, FLA. STATE UNIV., <https://coparenting.fsu.edu/lessons/about-this-training/> (last visited Nov. 18, 2019) ("This training is not intended for families who have a history of violence or abuse. Co-parenting training is not a solution to violence.").

participate in ongoing research studies by completing surveys which add to the knowledge base of effective interventions.¹¹⁰ An earlier study of participants in the curriculum confirmed that these parents report having elevated ACEs, with a majority of parents reporting four or more ACEs.¹¹¹

The current study¹¹² draws data from a sample of 505 parents who participated in the Successful Co-Parenting After Divorce training program and associated voluntary, anonymous surveys.¹¹³ Parents' childhood trauma was examined by asking them to complete the Adverse Childhood Experiences International Questionnaire.¹¹⁴ Parents were asked about

110. Anthony J. Ferraro et al., *Advancing Co-parenting Education: Toward a Foundation for Supporting Positive Post-Divorce Adjustment*, 33 CHILD & ADOLESCENT SOC. WORK J. 407, 411 (2016). The design of the evaluation instruments for the Successful Co-Parenting After Divorce program involves surveys before and after each module. These include a pre-test and post-test to examine changes in targeted attitudes from pre- to post-test, co-parental behaviors, self-reflection of the participants' experiences with the program, and various psychosocial indicators to better understand who the program works for and how can it be tailored to meet the needs of future parents. *Id.*

111. Oehme, *supra* note 97, at 61. In a study of 245 parents completing the Successful Co-Parenting After Divorce program, ACEs were elevated with 74.5% of the sample experiencing four or more ACEs and 43.5% of the sample experiencing seven or more ACEs. The most commonly reported ACEs were emotional abuse, intimate partner violence occurring in the household, and bullying. *Id.*

112. EXECUTIVE SUMMARY, *supra* note 13.

113. For purposes of this study, [i]nclusion criteria required that participants were either divorced or in the process of divorcing with at least one shared minor child from the relationship that was being or had been dissolved. Participants were predominantly female (73.86%), highly educated (38.48% had at least a bachelor's degree), on average 36.77 years of age ($SD = 8.01$), and identified predominantly as non-Hispanic White or Caucasian (77.59%); 8.25% identified as Black or African American, 9.73% identified as Hispanic or Latino, and 4.44% identified as Asian or other. Participants had, on average, 2.18 ($SD = 1.14$) children. Participants with multiple children (70.30%) were instructed to refer to their youngest child from their most recent marriage (target child). The target child was on average 7.09 ($SD = 4.60$) years old and slightly more likely to be female (52.84%) than male (47.16%). Participants were most likely to have primary physical custody of the target child (53.30%); 13.92% identified as nonresident, 29.72% identified shared physical custody with their former partner, and the remaining 3.07% identified an alternative physical custody situation or a physical custody determination that was yet to be determined. *Id.* at 3-4.

114. WORLD HEALTH ORG., ADVERSE CHILDHOOD EXPERIENCES INTERNATIONAL QUESTIONNAIRE, https://www.who.int/violence_injury_

thirteen types or domains of childhood trauma aggregated into four categories: (1) *neglect*, which included indicators of physical neglect and emotional neglect; (2) *abuse*, which included indicators of physical abuse, emotional abuse, and sexual abuse; (3) *environment*, which included indicators of community violence, collective violence, and bullying; and (4) *household*, which included indicators of the divorce or death of a parent, mental health issues for somebody in the home, alcohol or drug abuse by somebody in the home, incarceration of somebody in the home, and household violence.¹¹⁵ Resulting data analysis revealed that as a whole, parents in this sample had reported an average of 5.43 childhood traumas, 32.28% identified at least one neglect-related trauma, 76.89% identified at least one abuse-related trauma, 84.66% identified at least one environmental trauma, and 83.76% identified at least one household trauma.¹¹⁶ Only 5% of the sample reported that they did not experience any ACEs.¹¹⁷

The study then examined differences in the quality of co-parental relationships on the basis of childhood trauma experienced. Using a previously validated scale,¹¹⁸ parents were asked about issues such as whether their co-parent supported their relationship with the child and whether different forms of conflict existed in the co-parenting relationship.¹¹⁹ They were asked these questions before they took the online training, reflecting a baseline of co-parenting quality.¹²⁰ The parents who reported four or fewer ACEs reported a significantly higher baseline co-parenting quality.¹²¹ This finding suggests that those parents who experienced lower numbers of ACEs reported having higher-quality relationships with their co-parent in place prior to taking the online divorce education course. It is possible that these parents may need less assistance in their co-

prevention/violence/activities/adverse_childhood_experiences/questionnaire.pdf (last visited Nov. 18, 2019).

115. Responses were “dichotomized to represent the presence of any trauma or no trauma in any given omnibus category.” EXECUTIVE SUMMARY, *supra* note 13, at 4.

116. *Id.*

117. *Id.* at 7.

118. *See id.* at 5; Ferraro et al., *supra* note 110, at 412.

119. EXECUTIVE SUMMARY, *supra* note 13, at 5.

120. *See id.* at 6.

121. *Id.*

parenting relationship. It is also possible that parents who have experienced fewer childhood traumas may have an easier time applying the co-parenting communication and conflict-reduction techniques recommended by the training program than parents with a history of trauma.

Ignoring this essential information about the links between trauma and co-parenting will not cause the problem to disappear. The information supports calls¹²² for more research on the interaction of childhood trauma on adult life stressors including divorce. It also provides support for mandating that parents receive information about ACEs, with an emphasis on healing from ACEs so that they can resolve their trauma and move forward with their lives. Tailoring parent education so that it includes information about the impact of ACEs and suggestions to resolve that trauma is a crucial step in making divorce education relevant and updated. It acknowledges that trauma can be relevant to the quest for improving family outcomes, and places a responsibility on the divorce education process to respond to recent scientific advances.

Researchers also examined changes in parental attitudes¹²³ as measured by a test taken before the training to those indicated by a test taken afterward. Their goal was to measure the effect of the training content. Researchers sought to determine whether the training had any impact on parental attitudes and whether the type of ACEs that a parent experienced had any impact on those attitudes. For parents who had experienced household trauma¹²⁴ or abuse,¹²⁵ researchers found no significant differences in the impact of the training on their attitudes compared to those who had not experienced those

122. There have been widespread calls for continued research that explores the impact of childhood trauma on later life functioning, particularly how later life functioning can be impacted by the interplay of childhood trauma with newfound life stressors such as a divorce. See Tina Maschi et al., *The Aftermath of Childhood Trauma on Late Life Mental and Physical Health: A Review of Literature*, 19 *TRAUMATOLOGY* 49, 50 (2012).

123. These included attitudes about *post-divorce parenting* in general, *child focused* attitudes, and attitudes about the *former partner*. EXECUTIVE SUMMARY, *supra* note 13, at 5, 8-11.

124. Household trauma includes mental health issues of the caregiver, alcohol or drug abuse in the home, or loss of a parent through incarceration, divorce, or death. *Id.* at 15.

125. The category of abuse includes physical, emotional, and sexual abuse. *Id.* at 14.

types of events during childhood.¹²⁶

For parents who had experienced environmental trauma, however, researchers noted differences in the relationship between post-divorce parenting attitudes and child focused attitudes at pre-test (taken before the training) and post-test (taken after the training).¹²⁷ If a parent has endured environmental trauma, the parent's attitudes (of being child-focused, and toward post-divorce parenting overall) seem more flexible. These findings suggest that such parents may be more open to accepting new information provided in training, and that the trauma they experienced has not affected their ability to change their minds after they learn about positive post-divorce parenting generally and their child-focused attitudes specifically.

Conceivably, these results may mean that these parents would also have more flexible attitudes in these realms across training course formats, including in an *in-person* divorce education environment. However, it is worth noting that research indicates that people who have suffered environmental trauma may be less trusting of authority figures.¹²⁸ The fact that the training is not in person, but instead online, gives parents much more control over how they receive the new information. They can start and stop anytime on their own schedules, and take as much time as they need to review the information and videos. This finding may mean that parents who have experienced environmental trauma may be more responsive to online divorce education. This type of education may make more of an impact on certain parents. It is also more cost-effective than in-person training, requires fewer resources, and causes less disruption to the parents' work and childcare schedule.

Another implication of the data from this study is that parents who had experienced neglect as children respond differently to certain aspects of co-parent training. The study shows that there was less of a chance of parents changing their attitudes about their former spouse from pre-test to post-test. Thus, parents who had experienced neglect had more rigid

126. *Id.* at 2.

127. *Id.*

128. Arlene Benjamin & Ronelle Carolissen, "They Just Block It Out": Community Counselors' Narratives of Trauma in Low-Income Communities, 21 PEACE & CONFLICT 414, 417 (2015).

attitudes toward their former spouse. This means that parents who experienced childhood neglect may have less ability or willingness to accept new ways of thinking about their co-parent in divorce training. Such a finding is consistent with research suggesting that those who experienced neglect as children have a more difficult time trusting other people¹²⁹ and maintaining relationships with others.¹³⁰ Additionally, the study showed that for parents who did *not* experience neglect, their perceived quality of their co-parenting relationship was linked to their attitudes about their former spouse. This association was not apparent for those who reported neglect as an ACE: the quality of the co-parenting relationship reported at pre-test did not predict their attitudes about their former spouse at post-test.

In contrast, for those parents who did *not* experience neglect, their perception of the quality of co-parenting behaviors at pre-test did predict their attitudes about their relationship with their former spouse. Research is mixed regarding the relationship (or lack thereof) between co-parental behavior and attitudes about co-parenting.¹³¹ Conventional divorce education—which is generally limited to a few hours of content—frequently targets co-parental *relationships* as a

129. Ingeborg Eikenaes et al., *Avoidant Personality Disorder Versus Social Phobia: The Significance of Childhood Neglect*, PLOS ONE (Mar. 27, 2015),

<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0122846>

(demonstrating that neglect during childhood has adverse effects on a child's development and causes Avoidant Personality Disorder, in which the main component is a struggle or inability to trust others).

130. Julia C. Poole et al., *Do Adverse Childhood Experiences Predict Adult Interpersonal Difficulties? The Role of Emotion Dysregulation*, 80 CHILD ABUSE & NEGLECT 123, 124 (2018) (illustrating that children who have been neglected or even have at least one ACE, not only struggle with emotion dysregulation, but also in forging relationships with others).

131. See Lawrence H. Ganong et al., *Predicting Postdivorce Coparental Communication*, 52 J. DIVORCE & REMARRIAGE 1, 3 (2011). Researchers did not find a relationship between the frequency of co-parental communication and attitudes toward co-parenting in a study of 327 parents completing a mandated divorce education program. *Id.* Rather, they found that affect related to the co-parental relationship was a better predictor of co-parental behavior. *Id.* at 11-12. Deborah Madden-Derdich & Stacie Leonard found that for both mothers and fathers attitudes about co-parental competence and accommodation (akin to the former spouse attitudes herein) were significantly linked with co-parental conflict in a sample of 112 divorced parents. Deborah A. Madden-Derdich & Stacie A. Leonard, *Shared Experiences, Unique Realities: Formerly Married Mothers' and Fathers' Perceptions of Parenting and Custody After Divorce*, 51 FAM. RELATIONS 37, 40-42 (2002).

primary objective in programming.¹³² These findings provide new insight into why these research discrepancies exist and why those parents who have *not* experienced childhood neglect might benefit more from divorce education that focuses on the co-parenting relationship. Conversely, parents who *have* experienced neglect may be more receptive to divorce course content that addresses different aspects of post-divorce life during limited class time. For example, course content focusing on responsiveness to children's needs and healthy communication may be a more beneficial and worthwhile use of parents' time if they experienced neglect as children. Insights such as this one can lead to more individualized divorce training tailored to unique needs.

V. Repairing the Gap in Post-Divorce Education

In order to achieve the critical goals for which divorce education was created, legislators and judges must insist that the content of such courses be updated to reflect salient new research. For over two decades, the critical link between childhood trauma and later life functioning¹³³ has been known. The findings of the study conducted through the Successful Co-parenting after Divorce online course complement that prior work, demonstrating the long-term effects trauma can have on the impact of divorce education programming. Data indicated that parents who reported experiencing adverse childhood traumas reported less positive co-parental relationships. Many courts have been aware of the impact of ACEs and made substantial trauma-informed changes to court and court-related programming. At the same time, however, they have inexplicably left divorce education behind in the progress made in the family court system. It is not enough for policymakers to expect that parents will learn this information elsewhere,¹³⁴ or

132. See, e.g., 13 DEL. CODE ANN. § 1507(h) (West, Westlaw through ch. 218 of 2019-2020 Gen. Assemb.) (requiring divorce classes of at least four hours for all parents who have minor children).

133. Edwards et al., *supra* note 53, at 1453 (examining the prevalence of different types of childhood abuse among adults and that abuse's effect on adults' mental health).

134. It is unlikely that parents will decide to curate for themselves the resources available on credible websites such as *ACEs Too High News* or *Child Trends*. See generally ACEs TOO HIGH NEWS, <https://acestoohigh.com/> (last

that providers of divorce courses universally will spend the time and resources necessary to modify their course without a clear mandate to do so. Without leaders requiring change in statute, rule and policy, the divorce education process will continue to stagnate.

There is much work to be done throughout the various systems in which people receive services. In particular, the court system should strive to become fully responsive to people who have experienced trauma.¹³⁵ Many family courts and stakeholders such as the National Council of Juvenile and Family Court Judges,¹³⁶ the Association of Family and Conciliation Courts¹³⁷ and the American Bar Association¹³⁸ have missed an opportunity to help litigants heal, move on with their lives, and protect children from the cycle of intergenerational trauma. A simple recommendation by any one of these groups that all divorce education should include trauma-informed practices would have an enormous impact on how judges and lawyers see and respond to litigants, and on how litigants navigate the court system and post-divorce healing. Such an approach would also ensure that parents would encounter divorce education that is more tailored to meet their needs and provides a more productive focus to their learning experience.

In addition, the current study demonstrates the importance of recognizing the intergenerational impact of trauma. The study shows that those who experienced fewer ACEs reported higher quality co-parenting relationship with their co-parents.¹³⁹ For those parents who have experienced higher ACEs, the lower reported co-parenting quality could be a result

visited Nov. 18, 2019); Vanessa Sacks & David Murphey, *The Prevalence of Adverse Childhood Experiences, Nationally, By State, and By Race or Ethnicity*, CHILD TRENDS (Feb. 12, 2018), <https://www.childtrends.org/publications/prevalence-adverse-childhood-experiences-nationally-state-race-ethnicity>.

135. Patsy Carter & Andrea Blanch, *A Trauma Lens for Systems Change*, 17 STAN. SOC. INNOVATION REV. 48, 51-52 (2019) (stating that barriers to trauma-informed systems change remain and that trauma-informed organizations are not yet the norm in any field despite the failure of existing social service systems).

136. NAT'L COUNCIL JUV. & FAM. CT. JUDGES, <http://www.ncjfcj.org/> (last visited Nov. 18, 2019).

137. ASS'N FAM. & CONCILIATION CTS., <https://www.afccnet.org/> (last visited Nov. 18, 2019).

138. A.B.A., <https://www.americanbar.org/> (last visited Nov. 18, 2019).

139. EXECUTIVE SUMMARY, *supra* note 13, at 1-2.

of an intergenerational cycle of dysfunction. In such a cycle, individuals marry people who make poor partners or may be predisposed by prior trauma toward unhealthy co-parenting practices.¹⁴⁰

The study also provides evidence that specific types of trauma may affect parents' ability or willingness to make the changes recommended in co-parenting classes. Parents who experienced environmental trauma displayed more flexibility in their attitudes toward post-divorce parenting and willingness to be child-focused from pre- to post-test. Such ability or willingness¹⁴¹ to change can be helpful for parents trying to learn new communication skills or ways to negotiate a changing family. However, there are a number of possible explanations for why this training may have had these benefits for this particular subset of parents.

One intriguing explanation for this finding may be the online format. Research has indicated that individuals who have endured environmental trauma may be more resistant to authority figures than those who have not endured environmental trauma.¹⁴² This represents an important finding with direct implications for practitioners working with divorced parents. Parents who suffered environmental trauma may be more amenable to using an online course to learn new skills because they have control over using the curriculum and do not interact directly with instructors. Parents who have experienced childhood trauma often need help to develop the ability to self-regulate their emotions and develop the ability to respond appropriately to their children's needs.¹⁴³ It appears that those who have experienced environmental traumas and have been engaged with the online Successful Co-Parenting After Divorce intervention may become more aware of and responsive to children's needs.

The online divorce course encouraged participants to see their former spouse as a partner in parenting and included an

140. *Id.*

141. Researchers in this study are not sure of the reason those parents who experienced environmental trauma demonstrated more malleability in the training surveys. It might be a conscious decision to accept change, a protective instinct, or simply an emotional decision not made at a rational level.

142. See Benjamin & Carolissen, *supra* note 128, at 164, 165.

143. Cunningham & Renk, *supra* note 98, at 897.

interactive exercise in identifying the strengths of the other parent.¹⁴⁴ The curriculum asks each participant to think of the positive attributes of the other parent. Nevertheless, the data showed that parents who experienced neglect as children had less change in their attitudes about their former spouse from pre-test to post-test.¹⁴⁵ These findings may mean that having experienced neglect in the past has resulted in a parent having trouble believing that the co-parenting relationship could work despite the fact that the marriage failed. Or they may reflect that having been neglected has resulted in a parent choosing a partner who is also neglectful. These inferences are offered only as suggestions and ideas, but the most important takeaway is the importance of allowing parents to understand overall that their prior experiences may influence their current attitudes.

Appreciating the potential impact of their experiences may give co-parents a productive new perspective on their past. That opportunity will likely not exist broadly unless policymakers require, in law or administrative rule, that divorce co-parenting education be trauma-informed to include the impact of ACEs. Such a requirement would result in parents learning about the impact of trauma, being able to explore their own trauma histories, being made aware of resources in the community like counseling, and being able to reflect on how their prior trauma may have influenced their current attitudes and behavior. Instructors of such divorce classes would consciously work to provide a calm environment for learning, would be able to explain to parents how certain unhealthy behavior (e.g., substance abuse) may have been an attempt to cope with prior trauma, and could explain how trauma can become intergenerational. Instructors would be able to share coping skills, provide hope for healing trauma, and explain how the human brain can heal at every stage of development. Most important, parents would be able to learn that ACEs are preventable and do not have to be passed on to their children.

144. See, e.g., *Successful Co-Parenting After Divorce*, *supra* note 12.

145. EXECUTIVE SUMMARY, *supra* note 13, at 2.

VI. Conclusion

Divorce is an all-too-common event. Childhood adversity and trauma are also widespread. Courts have an extraordinary opportunity to provide thousands of people each year important information about trauma when they divorce. Making divorce education trauma-informed would bring more value to a very common court practice. It would help parents learn about the dynamics of trauma and the science of ACEs, and could help them begin to think about their experiences and begin the healing process. As the Centers for Disease Control and Prevention observes, “we all play a role in preventing childhood trauma.”¹⁴⁶ Failing to seize the opportunity to help people who are already compelled to take divorce classes understand the impact of childhood trauma only ensures that the cycle of ACEs and trauma will continue.

146. *We All Play a Role in Preventing Childhood Trauma*, CTRS. FOR DISEASE CONTROL & PREVENTION, (Jul. 15, 2019), <https://www.cdc.gov/features/prevent-childhood-trauma/>.

Appendix: Chart for Divorce Education

State	Statute	Court Rule	Discretion?	Citation to enumerated criteria, if applicable
AL				
AK				
AZ	Ariz. Rev. Stat. Ann. §25-351		No	Ariz. Rev. Stat. Ann. §25-351
AR	Ark. Code Ann. §9-12-322		Yes	
CA				
CO	Colo. Rev. Stat. §14-10-123.7(2)		Yes	Colo. Rev. Stat. §14-10-123.7(2)
CT	Conn. Gen. Stat. §46b-69b(b)		No	Conn. Gen. Stat. §46b-69b(b)
DE		Del. Fam. Ct. R. Civ. P. 16.4	No	
FL	Fla. Stat. §61.21		No	Fla. Stat. §61.21
GA		Ga. Unif. Sup. Ct. R. 24.8	Yes	Ga. Unif. Sup. Ct. R. 24.8
HI	Haw. Rev. Stat. §571-46.2		Yes	
ID		Idaho Fam. L. R. P. 1001(c)	Yes	
IL		Ill. S. Ct. R. 924	No	Ill. S. Ct. R. 924
IN		Ind. R. Ct. Parenting Time Guidelines §IV(2)	Yes	
IA	Iowa Code §598.15		No	Iowa Code §598.15(5)
KS	Kan. Stat. Ann. §23-3214		Yes	
KY				
LA	La. Stat. Ann. §9:306		Yes	La. Stat. Ann. §9:306
ME		Me. R. Civ. P. 107(a)(3)	Yes	
MD	Md. Code Ann. Fam. Law §7-103.2	Md. R. Fam. L. Actions 9-204	Yes	Md. Code Ann. Fam. Law §7-103.2; Md. R. Fam. L. Actions 9-204
MA				
MI				

MN	Minn. Stat. §518.157		No (Yes where custody uncontested)	Minn. Stat. §518.157
MS				
MO	Mo. Rev. Stat. §§452.372, 452.605		No	
MT	Mont. Code Ann. §40-4-226		Yes	
NE	Neb. Rev. Stat. §43-2928		No	Neb. Rev. Stat. §43-2928
NV				
NH	N.H. Rev. Stat. Ann. §458-D:2		No	N.H. Rev. Stat. Ann. §458-D:3
NJ	N.J. Stat. Ann. §2A:34-12.3		No	N.J. Stat. Ann. §2A:34-12.3
NM				
NY				
NC				
ND				
OH	Ohio Rev. Code Ann. §3109.053		Yes	
OK	Okla. Stat. tit. 43, §107.2		No	Okla. Stat. tit. 43, §107.2
OR	Or. Rev. Stat. §3.425		Yes	Or. Rev. Stat. §3.425
PA	23 Pa. Cons. Stat. §5332		Yes	
RI				
SC				
SD				
TN	Tenn. Code Ann. §36-6-408		No	Tenn. Code Ann. §36-6-408
TX	Tex. Fam. Code Ann. §105.009		Yes	Tex. Fam. Code Ann. §105.009
UT	Utah Code Ann. §30-3-11.3		No	Utah Code Ann. §30-3-11.3
VT				

VA	Va. Code Ann. §§16.1-278.15; 20-103		No (Yes where custody is unconte sted)	Va. Code Ann. §§16.1- 278.15; 20-103
WA				
WV	W. Va. Code §48-9-104	W. Va. Fam. Ct. R. 37	No	W. Va. Code §48-9-104; W. Va. Fam. Ct. R. 37
WI	Wis. Stat. §767.401		Yes	Wis. Stat. §767.401