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# Stop Making Court a First Stop for Many Low Income Parents

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# Stop making court a first stop for many low income parents

By **Jane C. Murphy**

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**T**he gap between rich and poor is clear when you look at the ways in which parents reach decisions about where their children will live and how they will be supported when Mom and Dad are no longer together.

If you have money, you can choose when and how much the court will be involved in your family's "reorganization." The parents hire lawyers who offer clients a range of options for resolving issues about children and finances. Today, divorcing parents of means increasingly choose out-of-court processes such as mediation, negotiation and even collaborative practice to resolve their issues without court involvement — thus avoiding the loss of control and loss of privacy that result from extended court proceedings.

For poor families, the process is completely different. The state — through the courts — is deeply involved, limiting parents' choices and often creating a chain reaction of trouble. Because low-income parents, particularly African-Americans, are more likely to be unmarried, they are subject to a system that is designed to reduce the state's welfare costs, not to promote the interests of children. Parents are often compelled to go to court to establish paternity and child support orders. These proceedings last only minutes and resemble debt-collection hearings more than proceedings involving obligations to children. The focus is on how much will be paid and when. The only party represented by a lawyer is the state.

In family court, poor families are undermined by a system that is supposed to strengthen families and protect children. In fact, for poor people, an encounter with the family courts often leads to an encounter with the criminal justice system. Such families make many trips to the courthouse, where fathers especially face difficulties. More dead broke than deadbeats, fathers are squeezed for support that they are often unable to pay. And, when the support goes unpaid, the parties are summoned to court for enforcement proceedings in which a range of sanctions, including incarceration, may be imposed.

Then, having gone through the humiliating and family-destabilizing experience of the paternity and child-support docket, parents are told they must initiate another court action, often in a separate division of the court, to work out a plan that allows both parents to be involved in their children's lives.

In theory, the goal of these proceedings is to do what's best for the child. But this process was designed for divorcing couples with the resources to hire lawyers and other experts to help them navigate the complex process of developing child-custody and visitation orders. However, the families the courts were designed to serve have the money to stay out of court; it's poor families who must suffer the loss of privacy, the hours of lost time and the general turmoil inherent in relying on courts to resolve these issues.

Judges, legislators and others are trying to make the courts more responsive to poor families. And many continue to fight for the right of all to have lawyers when fundamental issues such as access to children are at stake. But these efforts have had mixed success, and support for courts and state-paid lawyers is unlikely to become a government priority any time soon.

It may be time to think about strategies that better meet the needs of all families. What if we didn't assume that access to justice meant access to courts? What if we realized that, for many people, there is not much difference

between going to criminal court and going to family court? Proceedings in which judges threaten jail time when child support is not paid or a child visitation order is violated are not that different from proceedings involving petty drug offenses. In both cases, families lose privacy, control and stability as a result of state intervention. Why not extend the benefits of resolving family disputes outside of courts to all families, rich and poor?

Changing laws that require court intervention for the most basic family law remedies is a first step. Shifting or creating resources to provide community-based, comprehensive and affordable — or free — dispute resolution, as well as legal, mental-health and financial-planning services, can also help stabilize families or make transitions smoother for parents and children.

Providing community-based processes to resolve disputes and provide resources will not replace courts when parents refuse to support their children or exploit or harm vulnerable family members. But it's time to stop making the courts the mandatory first stop for poor families.

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