

REFORMING DIRECT EVALUATION OF COURT-MANDATED PARENTING CLASSES

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2016 MICH. ST. L. REV. 1147

ABSTRACT

A major shift in family law jurisprudence led courts to adjust their roles from faultfinders to that of conflict managers in adjudicating matters pertaining to divorce. This movement coincided with the no-fault movement generally, and as a result, the dissolution of marriage and its effects on minor children came to be seen in a new light. Standards governing these issues, paired with new evidence concerning the effects of divorce on children, left courts searching for ways to ameliorate the process. The result was the widespread and fast-growing implementation of parent-education programs.

With these programs now operating in the majority of states—and mandated by courts in many instances—there has been much debate regarding their efficacy. Numerous long-term studies have researched the impact of parent-education programs on both parents and children. However, in terms of direct evaluation of the programs, assessment is generally left to the parents.

In order to improve direct evaluation, additional court intervention is needed. Via statutory mandate or court rule, courts can set guidelines for the direct evaluation of parent-education programs. These mandates should include provisions for comparative pre- and post-test evaluation to be completed by parents, paired with long-term follow-up by a specialist. This type of comprehensive evaluation will provide easily accessible data on the effectiveness of the programs with marginal additional expense to the state. As such, the efficacy of all mandated parent-education programs—as opposed to just the few chosen test subjects of long-term surveys—will be readily ascertainable.

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INTRODUCTION

In 2011, after years of struggling with the fallout from her parents’ divorce, Tanya attempted to take her own life.¹ Fortunately she was unsuccessful, but the note she left for her mother speaks volumes to the horrific effects divorce can have on children.² Tanya’s parents divorced when she was just an infant; however, the manner in which her mother handled the divorce and shared parenting with Tanya’s father was so damaging that it led to this disturbing result.³ This story detailing the devastating effects of divorce is not unique,⁴ and it is easy to understand why many courts mandate parenting classes for divorcing spouses.⁵ However, an anomaly exists.⁶ In an area of law that involves the welfare of children adversely affected by divorce—an area which is strictly

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1. See MARINA SBROCHI, *NASTY DIVORCE: A KID’S EYE VIEW* 5 (2015). This occurred years after her parents’ nasty divorce, which preceded years of manipulation and abuse by her mother, and led to her eventual estrangement from her father. See *id.* at 4-5.

2. See *id.* at 5-6 (“Dear Mom, You always told me that my father wanted to abort me. You told me he is the reason that I am depressed. I feel like you don’t want me because I am part of him. So I’m going to make his wish come true. Goodbye.”).

3. See *id.* at 4-5 (“She was quick to assign blame to Tanya’s father for any problems in their life. One day, when she was 7, [her mother] sat Tanya down and told her that her father had actually wanted to abort her, but her mother fought to save her life. Coincidentally, this was shortly after Tanya’s father remarried. She told Tanya how she hated her father and that she should hate him too because he never wanted her to be born.”).

4. See generally *id.*

5. See *id.*

6. See *infra* Section II.C.

overseen by the judicial system—courts seem to be satisfied to leave the determination of the efficacy of parental education programs to the parents themselves.⁷

Divorce is arguably the most contentious time in a family's life.⁸ When brought before the courts, divorce presents numerous challenging facets; however, child custody is generally considered the hardest aspect to adjudicate.⁹ While all members of the family feel the effects of divorce and decisions regarding parenting time, courts have long recognized that their primary concern is the best interests of the children involved.¹⁰ In fact, the "best interests of the child" standard is applied throughout almost all stages of custody disputes.¹¹

Children exposed to inter-parental conflict as a result of divorce or separation are at risk of developing a variety of mental, emotional, social, and behavioral issues.¹² Children exposed to such conflict have been shown to be more likely to experience depression and anxiety, and exhibit abusive and disruptive behavior.¹³ However,

7. *See id.*

8. *See* Michael Jellinek, Kate Erwin & Alexa Bagnell, *Contentious Divorce: The Rocky Path to the Child's Best Interests*, 22 U. ARK. LITTLE ROCK L. REV. 375, 381-83 (2000).

9. *See* Steve Leben & Megan Moriarty, *A Kansas Approach to Custodial Parent Move-Away Cases*, 37 WASHBURN L.J. 497, 497 (1998) ("Child custody cases are readily conceded by judges to be among the most difficult cases they must decide.").

10. *See, e.g.*, *Sanney v. Sanney*, 511 S.E.2d 865, 869 (W. Va. 1998) ("We do not believe that the trial court exercised sound discretion in focusing on Mr. Sanney's ability to purchase a new home rather than on the best interests of the children."); *Becker v. Ball*, 403 N.Y.S.2d 373, 374 (N.Y. App. Div. 1978) ("In a custody proceeding arising out of a dispute between divorced parents, the paramount concern of the Court is and must be the welfare and best interests of the child.").

11. *See, e.g.*, MICH. COMP. LAWS ANN. § 722.25(1) (West 2016) ("If a child custody dispute is between the parents, between agencies, or between third persons, the best interests of the child control."); *Parish v. Parish*, 551 P.2d 792, 794 (Kan. 1976) ("In determining the right of custody of children between parents, the primary consideration is the best interest and welfare of the children, and all other issues are subordinate thereto."); *McDermott v. Dougherty*, 869 A.2d 751, 794 (Md. 2005) ("The best interests of the child test, which is asserted here by [the child's guardian], has long been the preferred standard to apply when the custody of minor children is at issue between the natural parents of the child or children." (quoting *Interest of M.M.L.*, 900 P.2d 813, 820 (Kan. 1995))).

12. *See* Susan Pollet & Melissa Lombreglia, *A Nationwide Survey of Mandatory Parent Education*, 46 FAM. CT. REV. 375, 376 (2008).

13. *See id.*

other children of divorce emerge relatively unscathed.¹⁴ Research has shown that this can be attributed, at least in part, to parenting.¹⁵ In an effort to reduce the risks to children associated with contentious divorces, court-affiliated education programs for parents who are separating or going through a divorce have grown rapidly throughout the country.¹⁶ With the focus squarely on the best interests of the child, most jurisdictions offer—and in many cases *mandate*—parenting classes for divorcing spouses.¹⁷ In fact, over forty-six states currently offer court-affiliated parent education classes.¹⁸ The goals of the programs that implement these classes vary; however, they all focus generally on the well-being of the children involved.¹⁹

While the goals of such programs are indisputably positive,²⁰ it is the effects of the programs with which this Note is primarily concerned. Unlike the work of other scholars, this Note does not seek to prove that parent-education programs are ineffective, but rather to explore the means of evaluating the effectiveness of mandated parenting classes, focusing on the parental self-evaluations and their current limitations.²¹ The focus is on direct evaluation—the routine evaluation conducted by the programs themselves as opposed to the methods used by long-term studies of select programs—with the goal of implementing comprehensive standardized evaluation methods for all parent-education programs.²² Ultimately, in cases that are arguably among the hardest for judges to decide,²³ and where the best

14. See Amanda Sigal et al., *Do Parent Education Programs Promote Healthy Postdivorce Parenting? Critical Distinctions and a Review of the Evidence*, 49 FAM. CT. REV. 120, 120 (2011).

15. See *id.* (“Considerable research has examined what factors differentiate those who adjust well from those who suffer lasting mental health, substance use and social adjustment problems. . . . [O]ne factor that researchers have found to have a powerful impact on children from divorced families [is] parenting by the mother and father following divorce.”).

16. See Pollet & Lombreglia, *supra* note 12, at 375.

17. See Sigal et al., *supra* note 14, at 126.

18. See *id.*

19. See *id.*

20. See *id.* (“Collectively, these programs focus on accomplishing several goals, including improving some aspect of post-divorce parenting, improving parents’ adjustment, understanding children’s adjustment to divorce and reaching agreement on a parenting plan.”).

21. See generally Tali Schaefer, *Saving Children or Blaming Parents? Lessons from Mandated Parenting Classes*, 19 COLUM. J. GENDER & L. 491 (2010).

22. See *infra* Part III.

23. See Leben & Moriarty, *supra* note 9, at 497.

interests of the child must be the focus,²⁴ courts that fail to ensure the effectiveness and accountability of such programs are fundamentally failing to protect minor children.²⁵ In fact, measuring the effectiveness of these programs—with an eye toward making them as successful and helpful as possible—is precisely where courts should be most involved.²⁶ Otherwise, courts simply impose a requirement on divorcing parents without truly understanding how that requirement will further the best interests and well-being of the children in that family.²⁷

Part I of this Note discusses the history and evolution of parent-education classes as part of family law and divorce generally.²⁸ Part II explores the current modes of direct assessment for these programs and the limitations that lie therein.²⁹ Finally, Part III argues for increased court involvement and a comprehensive system of evaluation that pairs comparative self-evaluation with long-term expert follow-up as well as explores the likelihood of implementation and the success of such evaluation.³⁰

I. LEGAL BACKGROUND AND EVOLUTION OF COURT-AFFILIATED PARENT-EDUCATION PROGRAMS

Parenting classes for divorcing spouses emerged alongside a widespread recognition of the harmful toll divorce has on children.³¹ With an understanding that many of these effects are ameliorated by changing parental behaviors, courts began to implement education classes aimed at reducing conflict.³² Although these courses vary significantly,³³ they all share the same goal: to serve the best interests of children involved in divorce.³⁴

24. See *supra* note 11 (exemplifying cases in which the best interests of the child standard was applied by the court).

25. See generally *infra* Part III.

26. See *id.*

27. See *id.*

28. See *infra* Part I.

29. See *infra* Part II.

30. See *infra* Part III.

31. See *infra* Section I.A.

32. See *infra* Section I.B.

33. See *infra* Section I.C.

34. See *infra* Section I.B.

A. A Brief History of Child Custody and the Evolution of Family Law

Child custody is a complex area of family law that, even in its most straightforward stages, involves territory that is not easily or efficiently navigable.³⁵ Divorce and the custody battles that can follow pose great risks to children.³⁶ These risks, however, can be—and *are*—mitigated when parents better understand how their actions affect children, and how they can manage conflict to lessen these risks.³⁷ This reality has given rise to an evolution in family law and custody disputes, one that seeks to shift the focus of custody disputes from finding fault to managing conflict.³⁸ This movement in custody law is consistent with the no-fault divorce movement and the underlying philosophy of no-fault divorce—that inquiries into marital fault are inappropriate.³⁹

1. *An Overview of Child Custody*

Child custody involves three primary elements: legal custody, physical custody, and parenting time.⁴⁰ All three areas can undoubtedly involve conflict that negatively affects children.⁴¹ However, once one looks past the legalities and formalities of label,

35. See *infra* Subsection I.A.1.

36. See *id.*

37. See *infra* Subsection I.A.2.

38. See *infra* Subsection I.A.3.

39. See Cynthia Starnes, *Divorce and the Displaced Homemaker: A Discourse on Playing with Dolls, Partnership Buyouts and Dissociation Under No-Fault*, 60 U. CHI. L. REV. 67, 121 (1993) (“[T]he UPA recognizes the unalterable right of a partner to dissolve the partnership at any time, notwithstanding even the most explicit agreement to the contrary. Such a right is the linchpin of no-fault divorce, which authorizes divorce at the will of either party, upon a finding that the marriage is ‘irretrievably broken.’” (quoting Uniform Marriage and Divorce Act § 302(a) (1973))).

40. See Uniform Child Custody Jurisdiction and Enforcement Act § 102(3) (1997) (“‘Child-custody determination’ means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child.”). The terms visitation and parenting time are used interchangeably. See, e.g., *Parenting Time/Visitation Rights*, LAKE COUNTY, OHIO, <http://www.lakecountyohio.gov/juvenile/dw/pdf/downloads/RuleVParentingTimeVisitation.pdf> [<https://perma.cc/64KZ-ZGDR>] (last visited Nov. 6, 2016).

41. See *infra* Subsection I.A.2.

much of the dispute revolves around how and when parents spend time with their children.⁴²

When a custody dispute is brought before a court, numerous persons and systems aim to ensure that the matter is fairly adjudicated.⁴³ The judge's role is to decide all custody matters, and the best interests of the child standard governs his or her decisions.⁴⁴ Often, a court-appointed representative⁴⁵ is assigned to complete custody evaluations and recommendations.⁴⁶ The representative's decision-making power, however, is limited—he or she can only make recommendations to judges regarding his or her observations.⁴⁷ Ultimately, the judge is left to make the final determinations, given the vitally important nature of the decisions.⁴⁸ In contrast, however, neither the court-appointed representative nor the judge play any role at all in evaluating parenting education and in determining its effects on the minor children involved.⁴⁹ Considering the potential harm to children—and the opportunity to mitigate that harm—this reality is disturbing.⁵⁰

42. See generally Joan H. McWilliams, *Parenting Time in Divorce*, 31 COLO. LAW. 25 (2002).

43. See STATE COURT ADMIN. OFFICE & FRIEND OF THE COURT BUREAU, MICHIGAN CUSTODY GUIDELINE 6-9, [hereinafter MICHIGAN CUSTODY GUIDELINE], <http://courts.mi.gov/administration/scao/resources/documents/publications/manuals/focb/custodyguideline.pdf> [<https://perma.cc/L39T-7HMR>] (detailing the role of the judge and friend of the court in custody hearings and the potential involvement of a “counseling center, a psychologist or social service agency”).

44. See, e.g., STATE COURT ADMIN. OFFICE, MICHIGAN PARENTING TIME GUIDELINE 3, [hereinafter MICHIGAN PARENTING TIME GUIDELINE], http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/focb/pt_gdlns.pdf [<https://perma.cc/7TTK-5X94>].

45. These representatives go by various titles; in Michigan they are called a “friend of the court.” See MICHIGAN CUSTODY GUIDELINE, *supra* note 43, at 7 (detailing the role of the judge and friend of the court in custody hearings and the potential involvement of a “counseling center, a psychologist or social service agency”).

46. See *id.* (“One of the responsibilities of the friend of the court is to complete a custody evaluation. The law requires the friend of the court to investigate all relevant facts and make a written report and recommendation to the parents and the court regarding child custody when there is a dispute as to child custody or parenting time, or both.”).

47. See *id.* at 6. Such a representative has no legal authority independent of the court. See also *Friend of the Court*, ACCESS KENT, <https://www.accesskent.com/Courts/FOC/> [<https://perma.cc/QY4B-YPHA>] (last visited Nov. 6, 2016).

48. See MICHIGAN PARENTING TIME GUIDELINE, *supra* note 44, at 7.

49. See *infra* Part III.

50. See *infra* Subsection I.A.2.

2. The Harmful Effects of Divorce on Children

As a result of contentious custody disputes, there is an array of negative effects felt by children.⁵¹ Aside from the pain and anguish typically associated with separation from a parent, divorce has been linked to numerous emotional, mental, and behavioral issues in children.⁵² Children of divorce are significantly more likely to experience anti-social tendencies, including engaging in drug and alcohol abuse⁵³ and criminal activity.⁵⁴ Although some of these negative outcomes can be attributed to the divorce itself, many negative results stem from the parents' problematic interaction during and after divorce.⁵⁵ Professor Paul Amato's well-respected study has linked the negative effects of divorce on children to five primary factors: "(1) the absence of the non-custodial parent, (2) the adjustment of the custodial parent, (3) conflict between parents, (4) economic hardship, and (5) stressful life changes."⁵⁶ Aside, perhaps,

51. See Solveig Erickson & Nancy Ver Steegh, *Mandatory Divorce Education Classes: What Do the Parents Say?*, 28 WM. MITCHELL L. REV. 889, 891 (2001); see also Pollet & Lombreglia, *supra* note 12, at 376.

52. See Erickson & Ver Steegh, *supra* note 51, at 891 ("The effects of divorce on children have been linked to negative outcomes in areas such as self-esteem, anxiety, school productivity, sense of overall well-being, rates of depression, conduct, psychological adjustment, academic achievement, parent-child relationships, and general trauma."). See generally SBROCHI, *supra* note 1.

53. See Leah McLaren, *Divorce Is Rarely a Good Thing – Especially for Children*, GLOBE & MAIL, Jan. 10, 2014, at L4 (detailing a study that found that "children of divorce are more likely to suffer from depression and anxiety and become substance abusers").

54. See Kenneth S. Mitchell-Phillips, Sr., *Five Steps to a Healthy Divorce: A More Supportive Legal Approach to Post-Divorce High-Conflict Relationships*, 6 WHITTIER J. CHILD & FAM. ADVOC. 147, 160-61 (2006) ("A statistical review of the major studies comparing family structure with juvenile delinquency found that children were ten to fifteen percent more likely to commit crimes in 'broken homes' than in 'intact families.' Similarly, a review of the significant studies comparing the impact of divorce on children's anti-social behavior consistently found that children of divorced parents are more prone to anti-social behavior."); see also OAKLAND CTY. FRIEND OF THE COURT, THE FRIEND OF THE COURT HANDBOOK 1, https://www.oakgov.com/courts/foc/PublishingImages/Pages/info_pub/foc_default/FOC%20Handbook%20-%20Booklet%20upd%205-2015%20-%20revised.pdf [https://perma.cc/5EZB-VDY9].

55. See SBROCHI, *supra* note 1, at 1 ("The way you behave during and after your divorce will affect your children.").

56. See Erickson & Ver Steegh, *supra* note 51, at 891-92.

from the economic aspects of divorce, the other four factors are all determined by parental behavior.⁵⁷

Alternatively, parents who respond to divorce conflict in positive and productive ways can help to alleviate the negative effects of that conflict on their children.⁵⁸ Parental behavior and attitudes explain why some children adapt relatively well to divorce and go on to lead healthy and happy lives, while others suffer significant negative consequences.⁵⁹ The recognition that parental responses to divorce can affect their children's responses led courts to implement educational programs for parents aimed at limiting the negative impact of divorce on children.⁶⁰ The emergence of parent-education programs coincided with a shift in divorce courts more generally.⁶¹

3. *The Evolution of Divorce and Custody Disputes: From Looking for Fault to Managing Conflict*

As divorce rates soared in the 1960s, 1970s, and 1980s,⁶² courts responded in typical adversarial fashion: by looking for fault in one particular parent, making determinations regarding who the better parent was, and awarding that parent primary legal and physical custody of the child.⁶³ This system was *faulty*, to be certain.⁶⁴ Aside

57. See *id.* at 892 (“It is generally accepted that children’s adjustment to divorce is directly related to how their parents respond to the divorce conflict.”).

58. See Lesley Foulkes-Jamison, *The Effects of Divorce on Children*, http://cpancf.com/articles_files/art_32attached_file.pdf [<https://perma.cc/RD9Z-ZRME>].

59. See SBROCHI, *supra* note 1, at 1 (“[T]he way parents choose to handle divorce can have a profound impact on their kids’ well-being. At best, kids can get over the initial shock and go on to lead healthy lives and have positive relationships with both parents. At worst—when kids are stuck in the middle of a high-conflict divorce—kids can suffer from depression and parental alienation, turn to drug or alcohol addiction, and even contemplate suicide.”).

60. See Edward Sosnick, *In the Name of the Children*, 73 MICH. B.J. 646, 646-47 (1994).

61. See *infra* Subsection I.A.3.

62. See Andrew Schepard, *The Evolving Judicial Role in Child Custody Disputes: From Fault Finder to Conflict Manager to Differential Case Management*, 22 U. ARK. LITTLE ROCK L. REV. 395, 395 (2000). This was due to “widespread ‘no fault’ divorce.” *Id.*

63. See *id.* (“[T]he child custody court was a fault finder functioning through adversary procedure. The court’s job was to identify a single custodial parent and assign that parent primary legal rights to the child after a trial about which parent was a better custodian for the child.”).

64. See *id.*

from the gender biases that prevailed at the time,⁶⁵ and the general disregard of the best interests standard,⁶⁶ this system also largely disregarded growing evidence that the best way to serve the children's best interests was by reducing conflict between their parents.⁶⁷ After recognizing this gap in the system, courts began to shift from "faultfinders" to "conflict managers."⁶⁸

As conflict managers, courts encourage parental agreements regarding custody.⁶⁹ While the faultfinding, adversarial model tended to ignore the ongoing relationships of the parties, the conflict-managing model focuses on those relationships.⁷⁰ Courts offer a support system to facilitate agreements in the form of mediation, education, and the continued access and ability to modify arrangements to best suit the needs of the children.⁷¹ In some cases—especially high-conflict divorces—courts will actually mandate that the parents attend parenting classes aimed at educating them on how to reduce the effects of their conflict on their children.⁷²

65. See *id.* ("The winner [of the custody dispute] was, however, largely predetermined by gender biased substantive standards that eliminated the seeming indeterminacy of the 'best interests' test."). The prevailing presumption was that children's best interests were served in the care of the mother. Andrew Schepard, *Taking Children Seriously: Promoting Cooperative Custody After Divorce*, 64 TEX. L. REV. 687, 696 (1985). Courts also relied heavily on gender biases regarding the mother's ability to nurture younger children. *Id.* ("Although they declared over and over again that custody decisions would be made solely on the basis of the child's best interests, with neither parent having a primary possessory right, courts decided repeatedly that a child of 'tender years' should be in the custody of its mother, who alone had the innate ability to nurture.").

66. See *id.*; see also Janet Weinstein, *And Never the Twain Shall Meet: The Best Interests of Children and the Adversary System*, 52 U. MIAMI L. REV. 79, 82 (1997) ("[T]he adversary system . . . may be contrary to a determination of the best interests of the child.").

67. See Schepard, *supra* note 62, at 395-96.

68. See *id.* at 396. This shift in custody law is consistent with the movement from fault to no-fault in the grounds for divorce. See *id.* at 395. However, some argue that the implementation of parenting classes is not about managing conflict, but just another means of finding fault, or "blaming" parents. See Schaefer, *supra* note 21, at 491-92.

69. See Schepard, *supra* note 62, at 396.

70. See Weinstein, *supra* note 66, at 83 ("Ongoing relationships between the contestants are not a consideration in this model. But, in cases involving the custody and welfare of a child, relationships are at the heart of the matter. For that reason, among others, efforts have been made to direct custody disputes in family court toward a more conciliatory model which honors relationships.").

71. See *id.*

72. See *infra* Subsection I.B.2.

Divorce can have a lasting and damaging impact on children.⁷³ As a result of this and attitudes toward divorce evolving more generally, courts responded by shifting their focus.⁷⁴ While the faultfinding system faded, and a new conflict-managing model emerged, the focus of divorce shifted toward interpersonal relationships.⁷⁵ With this focus in mind, courts began implementing parent-education programs aimed at managing parental conflict and reducing the negative effects of divorce on children.⁷⁶

B. Understanding Why and How Parent-Education Programs Are Implemented

Since the early 1990s, in response to the courts' move toward conflict management, a rapid emergence of parental-education programs has materialized.⁷⁷ This, at least in part, is the result of the standard governing child custody and all that it requires of courts.⁷⁸ The best interests of the child standard requires courts to put children first, and it is unsurprising that this has led to parent-education programs aimed at ensuring that parents do the same.⁷⁹ As a result, most programs are mandated by courts, and their implementation via statute or court rule requires that all divorcing parents of minor children attend.⁸⁰

73. See Erickson & Ver Steegh, *supra* note 51, at 891.

74. See Weinstein, *supra* note 66, at 85 (“[P]roceedings which pit children against parents, or place children in the middle of a battle between parents, are antithetical to the best interests of those children. A significant body of social science research informs us that the best interest of the child is almost always to have an ongoing relationship with her parents. We need a system which encourages and assists such relationships.”).

75. See Weinstein, *supra* note 66, at 83.

76. See *infra* Subsection I.B.2.

77. See Karen R. Blaisure & Margie J. Geasler, *1998 Nationwide Survey of Court-Connected Divorce Education Programs*, 37 FAM. & CONCILIATION CTS. REV. 36, 36 (1999) (“This second nationwide survey of 3,118 counties and independent cities indicates that 1,516 counties or cities in the United States currently have education programs available for divorcing parents. This is in contrast to results from a 1993-1994 study in which 541 counties had programs available, and is an increase of 180%.”) This growth has continued up to the present. See Pollet & Lombreglia, *supra* note 12, at 376.

78. See *infra* Subsection I.B.1.

79. See *id.*

80. See *infra* Subsection I.B.2.

1. *The Best-Interests-of-the-Child Standard*

Early in the evolution of children's rights in child custody matters, Judge Cardozo addressed the standard: "The chancellor . . . does not proceed upon the theory that the petitioner, whether father or mother, has a cause of action against the other or indeed against any one. He acts as *parens patriae* to do what is best for the interest of the child."⁸¹ The best interests of the child standard governs virtually all elements of child custody.⁸² An exception exists only when examining parental relocation;⁸³ however, even in this instance many states still apply the best interests of the child standard.⁸⁴

State statutes typically outline the factors to be considered under this standard.⁸⁵ The court must address each of these factors

81. *Finlay v. Finlay*, 148 N.E. 624, 626 (N.Y. 1925) ("He is not determining rights 'as between a parent and a child' or as between one parent and another. . . . He 'interferes for the protection of infants, *qua* infants, by virtue of the prerogative which belongs to the Crown as *parens patriae*.'").

82. See *supra* note 11 and accompanying text.

83. See *Leben & Moriarty*, *supra* note 9, at 509-12.

84. See *id.*

85. See, e.g., MICH. COMP. LAWS ANN. § 722.23 (West 2016).

Sec. 3. As used in this act, "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court: (a) The love, affection, and other emotional ties existing between the parties involved and the child. (b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any. (c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs. (d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity. (e) The permanence, as a family unit, of the existing or proposed custodial home or homes. (f) The moral fitness of the parties involved. (g) The mental and physical health of the parties involved. (h) The home, school, and community record of the child. (i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference. (j) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents. . . . (k) Domestic violence, regardless of whether the violence was directed against or witnessed by the child. (l) Any other factor considered by the court to be relevant to a particular child custody dispute.

individually⁸⁶—failure to do so is reversible error.⁸⁷ The standard requires courts to consider a number of factors including the emotional ties between the parents and the child; the capacity of the parents to provide the child with love, affection, and guidance; the stability of the environment in which the child lives; the mental and physical health of the parents; and any violence or abuse either directly or indirectly experienced by the child.⁸⁸ While each statute clearly outlines those factors that the court must individually address and make a determination upon, the factors tend to be rather vague and subjective.⁸⁹ What is clear—and evident universally among the individual statutes—is that courts are to put the interests of the children *first*.⁹⁰

Unfortunately, the faultfinding system tended to largely overlook the best interests of the child.⁹¹ There was a strong focus on the rights of parents, while the rights of the children went largely unnoticed.⁹² Even with the courts' contemporary shift in focus, it is not uncommon to disguise the interests of the parents within a best-interests argument.⁹³ Courts are left with the enormous responsibility of ensuring that all decisions are, in fact, made in the best interests of children, which ultimately led to the evolution of court-mandated parent-education programs.⁹⁴

86. See *id.* (“As used in this act, “best interests of the child” means the sum total of the following factors to be considered, evaluated, and determined by the court.”).

87. See *Schubring v. Schubring*, 476 N.W.2d 434, 435-36 (Mich. App. 1991) (“It is well settled that in determining the best interests of a child, a trial court must consider each of the factors contained in . . . the act . . . and state a conclusion on each. The failure to make such specific findings is error requiring reversal.”).

88. See, e.g., MICH. COMP. LAWS ANN. § 722.23 (West 2016).

89. See Robert Pfenning, *The Best Interests of the Child: Do the Courts' Subjective Factors in Determining "Best Interests" Really Benefit the Child?*, 17 J. JUV. L. 117, 118-19 (1996).

90. See *supra* note 10 and accompanying text.

91. See Weinstein, *supra* note 66, at 88 (“Commentators and practitioners in the custody dispute arena have expressed the sentiment that child custody matters are really not about the best interests of the child, but instead are about the interests of the parents (i.e., a contest between the rights of the two parents).”).

92. See *id.* (“This focus on the rights of the parents often occurs without a discussion of the responsibility adults owe to their children.”).

93. See *id.* (“[T]he focus of these proceedings on the best interests of the child may create some pressure for parents' attorneys to couch their arguments in terms of what is best for the child, rather than rigidly on their clients' interests.”).

94. See *infra* Subsection I.B.2.

2. Implementation of Mandatory Parent-Education Programs: Statutory Implementation Versus Implementation by Court Rule

Considering the best interests standard, it is no surprise that now in the majority of states legislation or court rules mandate that parents attend educational classes on how to modify behaviors in order to reduce the harm that children suffer as a result of divorce.⁹⁵ These classes aim to protect the best interests of the child by ensuring that their interests are always at the forefront of divorce proceedings and by seeking to mitigate the harmful effects of divorce and separation on the children.⁹⁶ Implementation via statute is relatively straightforward; however, understanding what these statutes require of courts is less obvious.⁹⁷

Accordingly, the terms mandatory and court-mandated require clarification.⁹⁸ In the context of parent-education mandates, these terms have two distinct meanings.⁹⁹ A statute or court rule may *require* the court to prescribe the programs for all divorcing parents of minor children, with limited discretion to excuse parents.¹⁰⁰ Conversely, the statute or court rule may give the court the discretionary authority to prescribe the programs and the court *chooses* to exercise that discretion.¹⁰¹

A Delaware statute, for example, provides: “In any case where there are living children of the marriage up to the age of 17, the Court shall order that the parties pay for and participate in a ‘Parenting Education Course’ unless the Court, upon motion, determines that participation in the course is deemed not necessary.”¹⁰² In this instance classes are mandatory for *all* parents of

95. See Schaefer, *supra* note 21, at 492 (2010) (explaining that legislation mandates that parent-education programs focus on teaching parents how to reduce the harm children experience as a result of divorce by adjusting their behavior).

96. See Pollet & Lombreglia, *supra* note 12, at 375 (“In an effort to take positive steps toward coping with problems for families and children created by high levels of separation and divorce, ever increasing civil caseloads and the exposure of children to interparental conflict, court-affiliated educational programs have emerged in the United States for parents separating from their spouse or partner or going through a divorce.”).

97. See *infra* notes 102-07 and accompanying text.

98. See *id.*

99. See *infra* notes 102, 109 and accompanying text.

100. See *infra* notes 102-03 and accompanying text.

101. See *infra* notes 109-12 and accompanying text.

102. DEL. CODE ANN. tit. 13, § 1507(h) (West 2007).

children under the age of eighteen—not just those involved in high-conflict divorce—unless the court determines they are unnecessary for a particular family.¹⁰³ The court thus has limited discretion to excuse parents' participation, but unless the court takes this affirmative step, all divorcing parents must participate.¹⁰⁴

The Delaware statute continues: "The 'Parenting Education Course' shall be a course which is certified by the Department of Services for Children, Youth and Their Families to meet the goal of educating divorce litigants on the impact on children of the restructuring of families."¹⁰⁵ There is, therefore, a requirement that a designated state department oversees the programs and ensures that the information and instruction revolves around the goal of educating parents about the impact of divorce on their children.¹⁰⁶ The statute continues to outline the required length of the program and subject matter to be covered in order for the program to be certified by that department.¹⁰⁷ While the Delaware statute can be parsed and its implicit mandates understood, the directives of court rules that mandate parent education tend to be far more explicit.¹⁰⁸

In contrast with the Delaware statute, the Kentucky court rule that governs parent education gives a great deal of discretion to the court.¹⁰⁹ The statute stipulates: "[W]here there are minor children in any dissolution or custody proceeding, the Court *may* order the parents . . . to participate in a Parent's Education Clinic."¹¹⁰ The rule, therefore, allows courts to choose when and if to mandate the programs.¹¹¹ Furthermore, the rule does not mandate a particular program overseen by a state department—as with the Delaware

103. *See id.*

104. *See id.*

105. *Id.*

106. *See id.*

107. *See id.* ("The course, in order to be certified by the Department of Services for Children, Youth and Their Families, shall consist of at least 4 hours of instruction and at a minimum provide instruction regarding the following items: (1) Information on the developmental stages of children; (2) Adjustment of children to parental separation; (3) Dispute resolution and conflict management; (4) Guidelines for visitation; (5) Stress reduction in children; and (6) Cooperative parenting.").

108. *See id.*

109. *See* Ky. 56th Cir. Ct. R. 708.

110. *Id.* (emphasis added).

111. *See id.*

statute—but instead allows parents to attend a parent-education program of their choice unless otherwise stipulated by the court.¹¹²

Mandatory parent education may be the result of a statute or rule mandating the program for all divorcing spouses, or a judge may have used his or her discretionary authority and found it appropriate to mandate it in a particular situation.¹¹³ Regardless of why courts prescribe parent education, the current focus is with all programs that are mandatorily attended by the parents.¹¹⁴ Parent-education programs differ not just in how they are implemented, but also in in format, substance, and other general characteristics.¹¹⁵

C. The Characteristics of Court Mandated Parent-Education Programs

Mandated parenting classes, as opposed to recommended parenting classes, are actually prescribed by the courts.¹¹⁶ There are currently forty-six states that have mandated parenting education classes in effect.¹¹⁷ The programs are, or should be, designed to fit the particular goals and needs of the participants and take into

112. See *id.* (“[T]he parties may choose their own parenting education classes unless specifically ordered by the Court.”).

113. See *supra* notes 102, 109 and accompanying text.

114. See *supra* Section I.C.

115. See *supra* Section I.C.

116. See *supra* Subsection I.B.2.

117. See ARIZ. REV. STAT. ANN. §§ 25-351 to 25-353, 25-355 (2009); ARK. CODE ANN. § 9-12-322 (West 2009); COLO. REV. STAT. § 14-10-123.7 (2009); CONN. GEN. STAT. § 46b-69b (2008); DEL. CODE ANN. tit. 13, § 1507(h) (2009); FLA. STAT. ANN. § 61.21 (West 2009); 750 ILL. COMP. STAT. ANN. 5/404.1 (West 2009); IOWA CODE § 598.15 (2008); KAN. STAT. ANN. § 23-3214(b) (2007); LA. STAT. ANN. § 9:306 (2009); MD. CODE ANN., FAM. LAW § 7-103.2 (West 2009); MINN. STAT. § 518.157 (2009); MO. REV. STAT. § 452.600 (2009); MONT. CODE ANN. § 40-4-226 (2007); 2007 Neb. Laws 554 § 9 (2009); N.H. REV. STAT. ANN. § 458-D:1-9 (2009); N.J. STAT. ANN. § 2A:34-12.1 to 2A:34-12.8 (West 2009); OKLA. STAT. tit. 43, § 107.2 (2009); OR. REV. STAT. § 3.425 (2007); TENN. CODE ANN. § 36-6-408 (West 2009); TEX. FAM. CODE ANN. § 105.009 (West 2009); UTAH CODE ANN. § 30-3-11.3 (West 2009); VA. CODE ANN. § 16.1-278.15 (2009); W. VA. CODE ANN. § 48-9-104 (West 2009); WIS. STAT. § 767.401 (2009); see also Schaefer, *supra* note 21, at 495. Also, a bill was introduced in Wyoming “that would authorize judges across the state to order divorcing parents’ participation in parenting classes.” Schaefer, *supra* note 21, at 491. Alaska, California, Georgia, Indiana, Kentucky, Michigan, New Mexico, New York, Pennsylvania, Washington, and Wyoming all have “programs [that] are mandated by court rules.” *Id.*

consideration the available resources.¹¹⁸ Parents are required to attend and complete the course and later submit to evaluations and assessments of the course and its impact on their lives.¹¹⁹ The mandated programs generally share the same goal: “to improve children’s well-being during and after a divorce by teaching parents how to better interact with children and with each other.”¹²⁰ However, they vary widely in length, format, and content.¹²¹

1. *Court-Mandated Parent-Education Programs Currently in Effect*

Parent education varies greatly; however, most programs share certain general characteristics.¹²² For starters, it is important to note the cost involved.¹²³ Due to their mandatory nature, it is axiomatic that much of the funding for the programs comes from the state.¹²⁴

118. See Karen R. Blaisure & Margie J. Geasler, *The Divorce Education Intervention Model*, 38 FAM. & CONCILIATION CTS. REV. 501, 501-02 (2000) (“This article offers a divorce education intervention model that court systems can use to determine the level of programming that fits their goals for divorce education and their available resources.”). Note that there are many tools and resources available to assist practitioner in creating programming that fits their particular goals. See, e.g., KAREN DEBORD, N.C. COOP. EXTENSION SERV., PLANNING, CONDUCTING, AND EVALUATING PARENTING EDUCATION PROGRAMS 8-9 (1998), <http://docplayer.net/4902186-Planning-conducting-and-evaluating-parenting-education-programs.html> [<https://perma.cc/3RBUR8R3>].

119. See *infra* Part II.

120. See Schaefer, *supra* note 21, at 493-94.

121. See, e.g., Pollet & Lombreglia, *supra* note 12, at 390 (providing a table in Appendix A that shows the variance of length, format, and content of several programs); see also Sigal et al., *supra* note 14, at 127-32.

122. See *supra* note 121 and accompanying text.

123. See *infra* notes 123, 127, 132 and accompanying text (noting several shared characteristics).

124. See, e.g., *New Beginnings (for Children of Divorce)*, BLUEPRINTS PROGRAMS, <http://www.blueprintsprograms.com/funding/new-beginnings-for-children-of-divorce> [<https://perma.cc/QL5W-7Y8U>] (last visited Nov. 6, 2016) (“New Beginnings can potentially be supported by funding streams aimed at preventing substance abuse and behavior problems. It can also be supported by parent education funding streams and state and local dollars for court-required parent education for divorcing parents, as well as parent fees.”); see also Peter Salem, Irwin Sandler & Sharlene Wolchik, *Taking Stock of Parent Education in the Family Courts: Envisioning a Public Health Approach*, 51 FAM. CT. REV. 131, 132 (2013) (“[S]ervices that are demonstrated to reduce family risk for the problems that often follow divorce and separation (e.g., mental health and substance abuse problems of children) should be able to compete successfully for federal, state, and local funding designated to prevent such problems.”).

However, there is typically a cost borne by the parents.¹²⁵ The fee varies from program to program and is typically minimal—yet this fee may still be burdensome for some families.¹²⁶

Additionally, most court-mandated parenting classes are typically short “educational interventions.”¹²⁷ The length of the programs ranges from a single film and lecture to an eleven-and-a-half-hour program.¹²⁸ Furthermore, some programs, such as those currently in place in Hawaii, make allowances for parents who cannot attend by providing course materials to be covered at the parents’ leisure.¹²⁹ To be sure, there are numerous critiques of the programs in terms of length alone.¹³⁰ However, limited funding together with issues of parental availability and the imposition on parents’ time have shaped the current reality of relatively short programs.¹³¹

The format of parent-education programs differs in one initial aspect: Programs may be either conducted in person or online.¹³² Online programs are touted and popularized due to their accessibility and efficiency,¹³³ yet they also have many downsides.¹³⁴ Of particular

125. See *Putting Children First: Court Mandated Education*, FAM. SERV. MERRIMACK VALLEY, MASS., <http://fsmv.org/Parenting/PuttingChildrenFirst.html> [<https://perma.cc/7XYC-3TX2>] (last visited Nov. 6, 2016) (“The cost of a two session class is \$80.00 per person.”).

126. In cases where the fee is a burden to families waivers are often available. See, e.g., *Parent Education Registration Form*, MULTNOMAH COUNTY, OR., <https://multco.us/dcj/fcs/webform/parent-education-registration-form> [<https://perma.cc/G8RN-KRKV>] (last visited Nov. 6, 2016) (providing a fee waiver for those “at or close to the poverty line”).

127. See Schaefer, *supra* note 21, at 493.

128. See Pollet & Lombreglia, *supra* note 12, at 390-94. Some classes may be longer, but they are not the norm. See, e.g., Blaisure & Geasler, *supra* note 118, at 509-10.

129. See Pollet & Lombreglia, *supra* note 12, at 391.

130. See, e.g., *id.* at 381.

131. See *id.* However, there are some interesting suggestions on how to extend these programs, at least on an optional basis, for parents interested in more. *Id.* at 381-82 (“One suggestion made is that ‘it may be that a referral system that links attendance at the short mandatory classes with voluntary referral to more extensive parenting classes would provide a mechanism for parents who want these services to access them.’”).

132. See Jill R. Bowers et al., *A Review of Online Divorce Education Programs*, 49 FAM. CT. REV. 776, 776 (2011) (explaining that technological advances have led to the creation of online parent-education programs).

133. See *id.* at 777 (“Online programs offer a number of advantages, such as convenience and flexibility for instructors and users, the ability to expand content and support for parents, cost effectiveness, and the opportunity to reach audiences that might be excluded from traditional programs.”).

relevance are the challenges associated with evaluating the quality and effectiveness of such programs.¹³⁵ In-person programs, while more costly and burdensome for participants, have the benefit of active engagement and involvement by the participants.¹³⁶

Besides the online versus in-person distinction, the content and format of the programs vary greatly in other ways.¹³⁷ One prominent study has suggested that the programs currently in effect could fit into one of three levels of intervention.¹³⁸ The first level, “basic information,” is very limited.¹³⁹ Parents are not asked for much in terms of active involvement, and the goal of such programs focuses on the distribution of information and resources.¹⁴⁰ An example of a basic information program would be a single session, approximately two hours in length, featuring a brief lecture, a video presentation, and handouts detailing the effects of divorce on children.¹⁴¹ Such programs are limited in that they require little beyond passive attendance; they do not encourage interaction between participants and practitioners, nor do they provide opportunity for the development and practice of newly acquired skills.¹⁴²

In contrast, the second level, “feelings and skills,” involves a more intensive and interactive program.¹⁴³ Parents are asked to work

134. *See id.* at 783-85 (explaining various drawbacks such as a “weak theory-research link,” limited legal/court-focused content, “limited attention to special circumstances,” and passive instruction).

135. *See id.* at 776 (“Changes in the technological landscape have allowed innovative practitioners to create online divorce education programs, yet these programs have not been formally evaluated for quality.”).

136. *See id.* at 784-85.

137. *See* Salem, Sandler & Wolchik, *supra* note 124, at 133-34 (“The parent education programs that emerged over the last quarter-century vary on nearly every dimension including their goals, length, content, instructional staff, institutional base, court affiliation, statutory authority, attendance policies, funding sources and the existence of an evaluation component (and its methodological rigor).”).

138. *See* Blaisure & Geasler, *supra* note 118, at 501 (“This model includes three levels of education that vary by extent of presenter and parent involvement: basic information, feelings and skills, and brief focused intervention.”).

139. *Id.* at 507 (“Level 1, basic information . . . requires passive and limited involvement from participants.”).

140. *See id.* (“The purpose of this level is to communicate research-based information and basic recommendations regarding parent, co-parent, child, and court issues in a short amount of time.”).

141. *See id.*

142. *See id.* (“The limitations of this level are that it avoids affective and experiential domains and provides little opportunity for discussion and no opportunity for communication skill development and practice.”).

143. *Id.*

on interpersonal skills and participate in skill-building exercises designed to help them in high-conflict situations in real life.¹⁴⁴ An example of a feelings-and-skills program would be several sessions, totaling approximately four to eight hours, where parents are placed in small groups and are asked to complete a variety of skill-developing activities such as role-plays, experiential-learning strategies, and other exercises.¹⁴⁵ While level-two programs encourage and facilitate active participation from parents, they are limited by time constraints and the inability to explore certain issues in depth.¹⁴⁶

Finally, level three, “brief focused intervention,” is the most involved type of program.¹⁴⁷ These programs are designed for families experiencing especially high levels of conflict, or for those with special needs.¹⁴⁸ The content of these programs provides “opportunities for individual focus within a group setting, using primarily experiential strategies.”¹⁴⁹ An example of a brief focused intervention would be several sessions over the course of eight to twelve weeks—or more—involving small group meetings led by highly trained practitioners, the sharing of personal issues, and the creation of an individualized plan to deal with conflict issues.¹⁵⁰ Though this level is certainly the most comprehensive, it is also the most expensive and may be beyond the resources available to certain communities.¹⁵¹

Each of these levels varies in scope and complexity and has its own unique advantages and disadvantages.¹⁵² Nevertheless, all three models of intervention operate to achieve the same goals: dissemination of information, skill building, and conflict reduction

144. *See id.* at 508-09 (“The purpose of this level is to encourage parallel or cooperative parenting skills in addition to conveying Level 1 information.”).

145. *See id.*

146. *See id.* at 508 (“A limitation of Level 2 is that some parents’ feelings and problems are too intense to be worked with constructively in a time-limited group.”).

147. *Id.* at 509 (explaining that the programs in each level require different levels of involvement from parents and educators and that this varies as program goals change).

148. *See id.*

149. *Id.*

150. *See id.*

151. *See id.* (“Limitations of this level are primarily that small group sessions, spread over several weeks, with highly trained practitioners are very expensive and may be beyond the resources of smaller court systems and communities.”).

152. *See id.* at 503-05.

for divorcing parents.¹⁵³ The Michigan model exemplifies a typical level-one program.¹⁵⁴

2. SMILE: The Michigan Model

Start Making It Livable for Everyone, or SMILE, is the level-one “basic information” Michigan parent-education program.¹⁵⁵ This program has well-documented origins and wide application throughout the state—making it an excellent study case.¹⁵⁶ SMILE arose out of first-hand recognition that parental behaviors adversely affected children of divorce and that educating parents mitigates these effects.¹⁵⁷ SMILE is a nationally recognized program that is mandatory for parents who have pending divorces in counties where the program is in effect.¹⁵⁸ The court requires proof of attendance before granting final judgments in domestic relations matters.¹⁵⁹

As a level-one, basic-information program, SMILE is relatively short—consisting of a single two-hour session.¹⁶⁰ The program facilitators present a fifty-minute video, *Listen to the Children*, which was produced by the Family Law Section of the State Bar of

153. See *id.* at 502 (“The goals usually encompassed by parental education programs are to convey information, teach skills, and reduce parental conflict.”).

154. See *infra* Subsection I.C.2.

155. See BARBARA A. BABB ET AL., PARENT EDUCATION PROGRAMS: REVIEW OF THE LITERATURE AND ANNOTATED BIBLIOGRAPHY 56-57 (2009), https://law.ubalt.edu/downloads/law_downloads/June2009_ParentEdPrograms_FINAL.pdf [<https://perma.cc/DK4E-GA2P>] (“It is classified as a level one Basic Information program within the Geasler-Blaisure model of parent education programs.” (citation omitted)). See generally Anne K. Soderman, Mona J. Ellard & Thomas S. Eveland, *Prevention of Conflict in Divorcing Families: SMILE*, 2 MICH. FAM. REV. 41 (1996), <http://quod.lib.umich.edu/m/mfr/4919087.0002.104/--prevention-of-conflict-in-divorcing-families-smile?rgn=main;view=fulltext> [<https://perma.cc/3HTA-Y94U>].

156. See Sosnick, *supra* note 60, at 646-47.

157. See *id.* at 646 (“The relationship between parental disbehavior and its effect on their kids is not readily understood. . . . However, once this message is received, parents can learn how to get along and share parenting responsibilities, even if they were not able to get along as husband and wife.”).

158. See, e.g., FRIEND OF THE COURT HANDBOOK, *supra* note 54, at 36.

159. See, e.g., *The Smile Program*, EATON COUNTY, MICH., <http://www.eatoncounty.org/day-treatment-program/99-courts/friend-of-the-court/364-the-smile-program> [<https://perma.cc/FX84-7HXB>] (last visited Nov. 6, 2016) (“Attendance must be documented to the Court prior to approving a final judgment.”).

160. See BABB ET AL., *supra* note 155, at 56 (“Start Making it Livable for Everyone (SMILE) is a two-hour parent education program designed to be presented in a single session.”).

Michigan.¹⁶¹ The video features children of varying ages discussing their experiences with divorces and the feelings that resulted.¹⁶² In addition to the video, program facilitators engage participants in group discussions regarding a wide array of topics related to divorce.¹⁶³ Attendees are also given a copy of the SMILE handbook, which details the program goals and topics covered.¹⁶⁴

The handbook explains that goals of SMILE are to “help[] parents to better understand the effects of divorce, the needs of their children, and their roles in promoting their children’s healthy adjustment to divorce.”¹⁶⁵ The topics covered by the handbook center on how parents¹⁶⁶ and children¹⁶⁷ feel during a divorce, and on how parents can help themselves¹⁶⁸ and their children during this

161. See *id.* at 57; see also Richard S. Victor, *Divorce Education for Parents and Grandparents* 1, <http://www.richardsvictor.com/published/divorce-education.pdf> [<https://perma.cc/45VA-7PUB>] (“This video was produced by the Family Law Section of the State Bar of Michigan. It has been disseminated throughout the United States and is currently used in many colleges/universities, as well as mental health facilities as part of o[u]r supplement to parent education programs regarding divorce education throughout the country.”).

162. See BABB ET AL., *supra* note 155, at 57.

163. See *id.*

164. See, e.g., Friend of the Court, *Start Making It Livable for Everyone (SMILE): Handbook for Separating/Divorced Parents with Minor Children* 1, OAKLAND COUNTY, MICH., https://www.oakgov.com/courts/foc/Documents/smile_handbook.pdf [<https://perma.cc/XBL9-4ST5>]; see also Friend of the Court, *SMILE: An Educational Program for Separating and Divorced Parents with Minor Children* 1, WASHTENAW COUNTY TRIAL COURT, http://washtenawtrialcourt.org/friend_of_court/smile_program/SMILE%20BOOK.pdf [<https://perma.cc/BRR6-U9G8>].

165. See *Start Making It Livable for Everyone*, *supra* note 164, at 1-2; see also *SMILE: An Educational Program*, *supra* note 164, at 1 (explaining that the goals of the program are “to provide information to help parents better understand the effects and impacts of divorce and separation,” “[t]o help parents understand the needs of their children during this life changing event and after,” and “[t]o promote children’s healthy adjustment to divorce and separation”).

166. See *Start Making It Livable for Everyone*, *supra* note 164, at 4. This section covers the stages of divorce, including denial, bargaining, anger, depression, and acceptance. *Id.*

167. See *id.* at 7-8. This area of the course is arguably one of the most pivotal as it breaks down emotional and psychological reactions to divorce by age group in simple and easy to understand terms, so that parents from any background can gain insight into what their child may be experiencing as a result of the divorce. *Id.*

168. See *id.* at 5. This area of the program focuses on how parents can deal with issues that will arise post-separation such as being alone, having less time for the children, managing the home, and financial issues. *Id.* at 5-6. The program offers a variety of suggestions and alternatives for dealing with each issue. *Id.*

transition.¹⁶⁹ The handbook works through various situations and anecdotes to demonstrate the ways in which parties may respond to divorce.¹⁷⁰ The program highlights disturbing emotional situations to which parents may unintentionally subject their children, emphasizes why the situations are harmful, and offers constructive alternatives.¹⁷¹ While the SMILE handbook itself does not offer alternatives to harmful parental behavior, such content is presumably covered during group discussions.¹⁷²

Ultimately, SMILE and other programs like it seek to demonstrate how behaviors and attitudes of divorcing or separating parents can negatively impact their children.¹⁷³ Once these behaviors are identified and recognizable to the parents, the programs seek to provide healthy, positive alternatives and coping mechanisms in order to mitigate the impact felt by children.¹⁷⁴ While the programs themselves have commendable objectives, the concern remains that with limited parental self-assessment it is almost impossible to tell whether these objectives are actually being met.¹⁷⁵

D. General Critiques of Mandated Parent-Education Programs

Mandated parent-education programs, regardless of their form or content, have faced harsh criticism in recent years.¹⁷⁶ The central concerns generally revolve around the policy statement implicit in

169. *See id.* at 9. Here—the heart of this program and others like it—SMILE provides guidance and tools for parents in order to mitigate the negative effects that divorce can have on children. *Id.* This section emphasizes children’s need for routine and predictability and a relationship with both parents (and how this can be achieved through the encouragements and positivity of the other parent). *Id.* Furthermore, this part of the program also explains how to keep children out of the conflict and how to remain a positive role model throughout times of contention. *Id.* at 10.

170. *See id.* at 15-19.

171. *See id.* at 15-17.

172. *See* Friend of the Court, *SMILE Program*, OAKLAND COUNTY, MICH., https://www.oakgov.com/courts/foc/Pages/program_service/smile_prog.aspx [<https://perma.cc/N922-7EPG>] (last visited Nov. 6, 2016) (“The program assists parents to better understand how . . . to communicate on a positive level and how to be flexible and compromise as co-parents in making decisions about their children.”).

173. *See generally* *Start Making It Livable for Everyone*, *supra* note 164, at 1-2.

174. *See id.*

175. *See infra* Part II.

176. *See, e.g.,* Schaefer, *supra* note 21; *see also* Matthew Goodman et al., *Parent Psychoeducational Programs and Reducing the Negative Effects of Interparental Conflict Following Divorce*, 42 FAM. CT. REV. 263, 273 (2004).

parent-education programs and the lack of evidence to support the conclusion that parent education has a positive impact on children and parents.¹⁷⁷ While the programs themselves are not the subject of this analysis, it is imperative to consider such concerns when exploring how program evaluation should be reformed.¹⁷⁸

A recent critique of the programs takes issue with their very existence—the argument is that parent-education programs do not actually represent a shift in the court from faultfinder to conflict manager, but rather, the programs themselves are another way of finding fault in divorcing parents.¹⁷⁹ A more tangible critique is that the programs have not demonstrably improved the lives and emotional well-being of parent attendees.¹⁸⁰ Likewise, others argue that parent-education programs have failed to actually make an impact in the lives of children.¹⁸¹ The final criticism—that the design of particular parent-education evaluation is poor—has particular relevance.¹⁸² While this criticism was in relation to long-term studies of three particular parent-education programs—as opposed to the design of direct parent self-evaluation—it highlights the need for proper evaluation methods and design in order to assess the efficacy of the programs.¹⁸³

177. See *infra* notes 180-81 and accompanying text.

178. See *infra* Part III.

179. See Schaefer, *supra* note 21, at 492 (“[This article] demonstrates that despite its child-oriented goals, the legislation is preoccupied with casting a negative judgment on parents’ decision to separate and with blaming parents for the negative effects of divorce.”).

180. *Id.* at 501 (citing a study that “found no difference in parent psychoemotional well-being between treatment and control group”); Cheryl Buehler et al., *Description and Evaluation of the Orientation for Divorcing Parents: Implications for Postdivorce Prevention Programs*, 41 FAM. REL. 154, 160 (1992).

181. See Schaefer, *supra* note 21, at 501 (“[S]o far no study has been able to convincingly show that short parent education programs have any effect on children’s well-being.”); see also Goodman et al., *supra* note 176, at 273 (arguing that there is “no empirical evidence” that proves short-term parent-education programs improve the lives of children).

182. See Sharlene A. Wolchik et al., *Programs for Promoting Parenting of Residential Parents: Moving from Efficacy to Effectiveness*, 43 FAM. CT. REV. 65, 67 (2005) (noting the evaluative flaws in three recent studies of parent-education programs).

183. See *id.* (“Although the program effects on conflict are promising, the design of the evaluations was weak (e.g., nonrandom assignment, nonequivalence between groups at pretest, and poor measurement of outcomes) and effects on child outcomes have yet to be demonstrated, so it is difficult to have confidence in the efficacy of brief informational programs.”).

Though the criticisms of the programs may have merit, studies have continually come to the same conclusion: Parent-education programs improve the lives of parents and children experiencing divorce.¹⁸⁴ To the contrary of those who have argued that the programs are ineffective, data has shown that the programs help to facilitate the reorganization of families in a positive and productive manor, while minimizing conflict and destructive behaviors.¹⁸⁵ However, in accepting that these criticisms have merit, there are valuable lessons to be learned regarding how to improve the evaluation of parent-education programs.¹⁸⁶ Parent education's harshest critics may find their concerns alleviated once evaluation is reformed.¹⁸⁷

II. CURRENT MODES OF ASSESSMENT

For a variety of reasons, once a parent-education program has been completed it is necessary to assess its efficacy.¹⁸⁸ The prevailing mode of assessing court-mandated parent-education programs is via parent self-evaluation.¹⁸⁹ Such evaluation comes in many forms—ranging from a single, superficial exit survey, to comprehensive pre- and post-test questionnaires paired with long term follow-up.¹⁹⁰

184. See Pollet & Lombreglia, *supra* note 12, at 385 (“Mandatory parent education for divorcing and separating parents has been found to be an effective tool to improve the lives of parents and children throughout this country.”); Wolchik et al., *supra* note 182, at 65 (arguing that research supports this proposition: “[A] large amount of literature declares that parental training programs are efficacious in treating and preventing a wide variety of child behavior problems”); see also Erickson & Ver Steegh, *supra* note 51, at 908 (noting that the program “succeeded in sensitizing parents to their children’s needs, helped parents focus more on the needs of their children, and assisted them in gaining perspective.”).

185. See Pollet & Lombreglia, *supra* note 12, at 385 (“[Parent Education] opens the door to accessing resources to continue the process of reorganization of families in a way that is most beneficial to all concerned.”).

186. See *infra* Part II.

187. See *infra* Part III.

188. See Robert Hughes, Jr. & Jacqueline J. Kirby, *Strengthening Evaluation Strategies for Divorcing Family Support Services: Perspectives of Parent Educators, Mediators, Attorneys, and Judges*, 49 FAM. REL. 53, 53 (2000).

189. See Jeffrey T. Cookston et al., *Prospects for Expanded Parent Education Services for Divorcing Families with Children*, 40 FAM. CT. REV. 190, 190 (2002).

190. See *infra* Subsections II.B.1-2.

After an exploration of these modes of assessment, or lack thereof, it becomes evident that reform is needed in this area.¹⁹¹

A. The Goals of Assessment

While the particular methods of assessing parent-education programs are of particular relevance, the goals inherent in assessment and evaluation are also noteworthy.¹⁹² Evaluation can be defined as “the systematic collection of information about the activities, characteristics, and outcomes of programs to make judgments about programs, improve the program effectiveness, and/or inform decisions about future programming.”¹⁹³ Professors Hughes and Kirby break the goals of evaluation into three areas: efficacy, effectiveness, and cost-effectiveness.¹⁹⁴ Efficacy involves utilizing assessment to determine whether a particular program strategy leads to desired changes in parents.¹⁹⁵ In assessing for effectiveness, the goal is to determine whether the programs have had a positive and lasting effect on children and their families.¹⁹⁶ Finally, assessment for cost-effectiveness seeks to understand whether the programs are, or can be, “delivered in ways that reduce costs to society.”¹⁹⁷

Though the goals and benefits of evaluation are widely acknowledged and accepted, many programs—especially online varieties—are not assessed at all.¹⁹⁸ This perplexing phenomenon may be partly explained by economic considerations and the commonplace lack of sufficient funding and resources in the

191. See Salem, Sandler & Wolchik, *supra* note 124, at 137 (“Thus, although the findings from the meta-analysis are encouraging, the consensus across the qualitative and meta-analytic reviews is that there is a need for rigorous evaluation to more definitively assess the effects of parent education.”).

192. See Hughes & Kirby, *supra* note 188, at 53.

193. *Introduction to Evaluation*, NAT’L PARENTING EDUC. NETWORK, <http://npen.org/resources-for-parenting-educators/evaluating-parent-education-programs/introduction-to-evaluation> [<https://perma.cc/4SGS-T7AW>] (last visited Nov. 6, 2016).

194. See Hughes & Kirby, *supra* note 188, at 53-54.

195. See *id.* at 53.

196. See *id.*

197. See *id.* at 54.

198. See Sharita Forrest, *Assessment of Online Divorce Education Programs Finds Weaknesses*, ILL. NEWS BUREAU (Nov. 8, 2011, 9:00 AM), <https://news.illinois.edu/blog/view/6367/205202> [<https://perma.cc/UY5S-SKV8>] (“While online programs provide a convenient means for some parents to satisfy court mandates, there have been no formal assessments of the programs’ quality and effectiveness, a research team at the University of Illinois found when it reviewed six popular online divorce education programs utilized by courts throughout the U.S.”).

courts.¹⁹⁹ However, failing to assess the programs altogether is not a viable option if the programs are to continue with any success.²⁰⁰ In making determinations regarding which methods of evaluation are most effective, it is essential that these goals remain at the forefront of the discussion.²⁰¹

B. The Varying Forms of Self-Assessment of Parent-Education Classes

While the goals of assessment are unchanging, the methods involved are varied, to be sure.²⁰² Self-evaluation is the predominant mode of direct assessment, and this mode, too, comes in many forms.²⁰³ In its most basic form—the exit survey—evaluation involves just a few short questions completed after the conclusion of the program.²⁰⁴ In their more sophisticated form—comparative evaluation—self-evaluations consist of a pre-program questionnaire, a post-program questionnaire, and long-term-follow-up interviews conducted by trained professionals.²⁰⁵

1. *The Exit Survey*

The exit survey, or single post-test assessment, is the prevailing tool in the immediate evaluation of parent-education programs.²⁰⁶ These evaluations typically consist of a short questionnaire given to parents upon completion of a parent-education program.²⁰⁷ This is the most basic and predominant form of self-assessment, and it tends to be a rather perfunctory endeavor.²⁰⁸ In fact, one recent study found that only five programs in the United States were actually designing

199. See *infra* Section III.C.

200. See *infra* Section III.A.

201. See *infra* Part III.

202. See *infra* Subsections II.B.1-2.

203. See *infra* Subsection II.B.1.

204. See, e.g., Erickson & Ver Steegh, *supra* note 51, at 904-08.

205. See, e.g., Emily H. Becher et al., *Parents Forever: Evaluation of an Online Divorce Education Program*, 56 J. DIVORCE & REMARRIAGE 261, 266, 272 (2015).

206. See Cookston et al., *supra* note 189, at 190.

207. See, e.g., *Parent Education Seminar Evaluation Form*, VA. JUD. SYS., http://www.courts.state.va.us/courtadmin/aoc/djs/programs/parented/provider_info/p_e_eval.pdf [<https://perma.cc/VW3R-J6TC>].

208. See Blaisure & Geasler, *supra* note 118, at 511 (examining that most programs have yet to include evaluation “summative data”).

their evaluations to assess their program's impact on the lives of children involved.²⁰⁹ Such formative evaluations—aimed at evaluating the program itself rather than its impact on the lives of individual families—tend to be superficial.²¹⁰ Another study demonstrated that this type of evaluation also tends to focus primarily on the satisfaction of the parents and not the real world impact these programs have in the lives of the children they are designed to help.²¹¹

Virginia's parent-education seminar evaluation is an example of an exit survey.²¹² Evaluation forms consist of ten questions, six of which have nothing to do with the program's effect on the parents whatsoever.²¹³ The questions that do involve the effectiveness of the program focus on the program itself and how it can be improved, rather than how completion of the program has impacted parents and, in turn, children.²¹⁴ Another study demonstrates the particularly shallow nature of the questions involved in exit surveys.²¹⁵ In this instance, exit surveys given to parents who had completed a parent-education program included questions such as: (1) What did you find most useful?; (2) What could be done to improve the program?; (3) Would you recommend the program to others?; and (4) Do you still have questions?²¹⁶

Other exit surveys—such as those employed by Gwinnett County Courts in Georgia—do ask open-ended questions seeking

209. See Cookston et al., *supra* note 189, at 190 (“Results from a nationwide survey of parent education programs connected to the courts found that only five programs assessed how child functioning was affected by program participation.”).

210. See *Parent Education Seminar Evaluation Form*, *supra* note 207.

211. See Sigal et al., *supra* note 14, at 126.

212. See *Parent Education Seminar Evaluation Form*, *supra* note 207.

213. Such questions focus on formative evaluation and improving the program itself. See *id.* The six questions, numbers one, two, seven, eight, nine, and ten, focus on issues such as the convenience and appropriateness of the location and the instructor's abilities. *Id.*

214. See *id.* An example of a formative question is “[d]id you find the interactive activities and group discussion helpful?” *Id.* Evaluation of Minnesota's Dakota County parent divorce education program involves four equally generic questions. See Erickson & Ver Steegh, *supra* note 51, at 903-04.

215. See *id.* at 904.

216. See *id.* (“Surveys collected at the conclusion of each session contained the following questions: 1) What information did you find most useful? 2) Are there questions you still have? 3) How could the class be improved? 4) Would you recommend the class to others?”).

suggestions for the future.²¹⁷ However, responses to these broad questions often fail to be particularly insightful.²¹⁸ One attendee of Navigating Family Change: A Parent Seminar—the program employed by Gwinnett County—reported, “I thoroughly enjoyed the class . . . It went fast and the speakers did a great job keeping the audience’s attention. The humor helped.”²¹⁹ Exit survey questions and the answers they provoke may explain why there is so little data on how these programs actually affect parenting practices—if they affect them at all.²²⁰

A central vulnerability with the cursory exit survey questionnaire is that it permits only weak inferences regarding the actual effects of the program.²²¹ Part of the problem is self-evaluation itself.²²² The issue here is a psychological one;²²³ parents going through a divorce face numerous psychological challenges including anxiety, trust issues, and a need for a sense of “justice.”²²⁴ In fact, divorce can have as profound an impact on an individual as experiencing the death of a loved one.²²⁵ Due to these various

217. See *Parenting Seminar*, COUNTY OF GWINNETT, <http://www.gwinnettcourts.com/court-programs/parenting-seminar.aspx> [<https://perma.cc/WW58-CB6J>] (last visited Nov. 6, 2016) (“Each participant will complete a written evaluation of the seminar at its conclusion, indicating their individual assessment of the value of the seminar and any suggestions for future seminars.”).

218. See *id.*

219. *Id.* Another sample answer stated: “At first I was hesitant to take this seminar, yet it is by far the best I have attended. The two instructors were excellent and I would advise many people to attend! Very resourceful.” *Id.*

220. See Denise J. Brandon, *Can Four Hours Make a Difference? Evaluation of a Parent Education Program for Divorcing Parents*, 45 J. DIVORCE & REMARRIAGE 171, 172 (2006) (“However, research on the effectiveness of these classes in actually changing parenting practices is very limited in quantity and quality.”).

221. See Goodman et al., *supra* note 176, at 271.

222. See Becher et al., *supra* note 205, at 272 (“Weaknesses include . . . the use of participant self-report.”).

223. See Kathleen O’Connell Corcoran, *Psychological and Emotional Aspects of Divorce*, MEDIATE.COM (June 1, 1997), <http://www.mediate.com/articles/psych.cfm> [<https://perma.cc/FD8G-PKEA>] (“This article summarizes many of the common psychological and emotional effects divorce has on men, women and children.”).

224. See Donald T. Saposnek & Chip Rose, *The Psychology of Divorce*, MEDIATE.COM (Mar. 2, 2004), <http://www.mediate.com/articles/saporo.cfm> [<https://perma.cc/24MQ-9E9M>]. The authors go on to explain that “[m]ost divorce researchers conceptualize the divorce process as a series of developmental stages through which the divorcing families proceed.” *Id.*

225. See *id.* (explaining that divorce can be a “psychological and emotional death” for some).

psychological factors, a single parental self-assessment cannot be relied upon to provide comprehensive and reliable information.²²⁶ The other issue is that a single, one-time, evaluation is hardly evidence-based.²²⁷ There is a broad movement in social science—one beyond just the example of education classes²²⁸—to provide scientific data regarding the actual effects of the programs.²²⁹ The movement toward applying a more scientific approach to evaluating this field is the result of recognition that while these programs have the best of intentions, many do not actually effectuate change.²³⁰ To properly understand the effects and limitations of the programs—and eventually effectuate change—a more scientific approach, focusing on evidence-based assessment, is necessary.²³¹

One benefit of having parents evaluate their own progress, understanding, and enrichment via these programs is that courts receive first-hand accounts from the parties.²³² This kind of assessment can involve retrospection, assessment of perceived behavioral changes, observations of adjustment of the children, personal satisfaction with the program, a comparison of pre- and post-program understanding of the children's needs, along with the more standard assessments of the information received and the

226. See *supra* note 224 and accompanying text.

227. See Salem, Sandler & Wolchik, *supra* note 124, at 132.

228. Other studies advocate for improved methods of evaluation in terms of long-term studies of the programs, as opposed to immediate parent self-evaluation reform. See, e.g., Bowers et al., *supra* note 132, at 777 (detailing a long-term study that compared pre- and post-test self-reports by parents); see also Goodman et al., *supra* note 176, at 270-71 (outlining evaluation criteria including reporting published in professional literature, comparisons between participants and control groups, pre- and post-test comparisons, a “quantitative measure . . . to assess the outcomes,” and statistical analysis change reported by participants versus those in control groups). While this study provides a useful model, it concerns long-term studies with vast resources and research experts devoted to the endeavor. See *id.* at 274. However, the current proposition concerns only improving self-evaluation methods for a more immediately discernible impact. See *infra* Part III.

229. See *infra* Part III; see also Cookston et al., *supra* note 189, at 192.

230. See Salem, Sandler & Wolchik, *supra* note 124, at 132 (“The movement for evidence-based programs and practices is based on the recognition that while many social programs are very effective, many practices and policies implemented by well-meaning professionals do not work, or even have unintended negative effects.” (citations omitted)).

231. See Cookston et al., *supra* note 189, at 192.

232. See Hughes & Kirby, *supra* note 188, at 59 (explaining how parent satisfaction and knowledge can be discerned by evaluation).

program as a whole.²³³ Furthermore, this mode of assessment is both efficient and cost-effective.²³⁴ Evaluations are produced with minimal cost to the state, and with parents mandated to complete the assessments themselves, there are relatively few resources and personnel required to supervise, gather, and analyze the data.²³⁵ While there are benefits to this mode of assessment—and this Note does not advocate for its demise—this system is sorely lacking in many other areas.²³⁶

2. *Comparative Evaluation: Pre- and Post-Program Inquiries and Long-Term Follow-Up*

Nevertheless, there are programs that involve extensive and enlightening self-evaluation that is designed to address each of the important goals of assessment.²³⁷ This type of evaluation addresses many of the critiques of exit surveys.²³⁸ Specifically, this type of evaluation allows concrete conclusions to be drawn based on comparisons over time.²³⁹ Furthermore, this methodology answers a growing demand for standardization of evaluation.²⁴⁰ Scholars have suggested that utilizing standard measures of satisfaction and knowledge will lead to more accurate measures of outcomes.²⁴¹ At present, this type of evaluation is predominantly used in long-term studies, as opposed to the regular assessment of the programs.²⁴² Nonetheless, they provide excellent models and examples for improving immediate parent self-evaluation.²⁴³

233. See Sigal et al., *supra* note 14, at 126-32 (describing various programs and their evaluations in “Table 1: Measures of Outcome and Time of Assessment”).

234. See, e.g., Erickson & Ver Steegh, *supra* note 51, at 908 (discussing the use of surveys and a single researcher in evaluating the programs).

235. See *id.* at 904-09.

236. See *supra* notes 209-10, 215 and accompanying text.

237. See Becher et al., *supra* note 205, at 265-67.

238. See *infra* notes 253-63 and accompanying text.

239. See Goodman et al., *supra* note 176, at 271 (stating that pre- and post-testing can be used to assess changes over time).

240. See Hughes & Kirby, *supra* note 188, at 59 (calling for standardized measures of satisfaction and knowledge).

241. See *id.*

242. See, e.g., Becher et al., *supra* note 205, at 265-67 (detailing an extensive study of Parents Forever).

243. See *id.*

In assessing Parents Forever, a program developed by the University of Minnesota Extension Service²⁴⁴ for families experiencing divorce, researchers created an ideal model of evaluation.²⁴⁵ This model involved extensive questions both at the onset and the conclusion of the program, along with a six-month follow-up.²⁴⁶ While many of the questions included were either formative or demographic in nature,²⁴⁷ approximately half of the questions in both the pre- and post-program surveys were aimed at ascertaining the effects of the program on parents and their children.²⁴⁸ Some examples of the questions asked include: (1) “How often do you encourage your children to spend time with the other parent?”; (2) “How often do you talk badly about or put down the other parent in front of the children?”; (3) “How often do you think your children have felt put ‘in the middle’ of a difficult situation between you and the children’s other parent?”; and (4) “How often do you feel you’ve cooperated effectively in coparenting children with the other parent?”²⁴⁹ The post-test survey also included several open-ended questions.²⁵⁰

In addition to the pre- and post-test surveys, the assessment also includes long-term follow-up with parents six months post-completion of the program.²⁵¹ The questions asked at the six-month marker included questions regarding the current legal status of the

244. See *Parents Forever*, U. MINN. EXTENSION, <http://www.extension.umn.edu/family/parents-forever/> [https://perma.cc/9YD3-5659] (last visited Nov. 6, 2016).

245. See Becher et al., *supra* note 205, at 265-67.

246. See *id.* at 266 (“The online pretest consisted of 30 questions. . . . The online posttest consisted of 30 questions. . . . The posttest also included several open-ended questions related to each learning module of Parents Forever online. . . . The 6-month follow-up contained the same set of skills questions as asked in the pretest and posttest . . . including questions related to relationship and legal status with coparent, initiation of relationship dissolution, amount of conflict with coparent (before, during, and after the divorce process), custody status, satisfaction with custody status, parenting agreements including satisfaction and adherence, child support, alimony, quality and quantity of social support and finally, measures of individual and family well-being related to indicators of stress and resources (e.g., access to food, day care, quality transportation, etc.).”).

247. See *id.* (“The first 15 questions of the [pretest] survey were demographic. . . . The second 15 posttest questions were designed to gather information about the influence of the online technology on their experience.”).

248. See *id.* (“The last 15 questions [of the pretest] were about behavioral skills such as parenting behaviors, self-care, and managing conflict. . . . The first 15 questions of the posttest were identical to the skills questions in the pretest.”).

249. See *id.* at 266-67.

250. See *id.* at 266.

251. See *id.*

parties, the custody status for the minor children, adherence to parenting agreements, and individual and family well-being.²⁵² Once responses were collected at each interval—pre-test, post-test, and six-month follow-up—researchers then compared the responses to ascertain the impact of the program.²⁵³ From this data, researchers were able to come to meaningful conclusions regarding the positive impacts of Parents Forever, along with areas in which the impact of the program was either not significant, or possibly negative.²⁵⁴

Long-term follow-up can take the form of an additional survey, as with the Parents Forever evaluations,²⁵⁵ or it may be an actual interview, usually conducted via telephone.²⁵⁶ In a study of the SMILE program from Michigan, for example, researchers spent approximately forty-five minutes speaking with participants during a follow-up telephone interview.²⁵⁷ During the interview, researchers asked open-ended questions such as “[w]hat was the most difficult aspect of this transition, for you, for your children, for your spouse?” and “[h]ow hopeful are you about the ability of your family to stabilize in a healthy way?”²⁵⁸ In addition to providing participants with an outlet to voice concerns not readily communicated when answering a closed question, a telephone interview also provides participants with an opportunity to ask questions of their own—questions that they may not have felt comfortable asking during the course of the program.²⁵⁹

Although there are comprehensive evaluative methods and tools available, most programs still utilize cursory means of parental self-evaluation in the style of the exit survey.²⁶⁰ Whereas this means

252. *See id.* (explaining that the types of questions asked “related to relationship and legal status with coparent, initiation of relationship dissolution, amount of conflict with coparent (before, during, and after the divorce process), custody status, satisfaction with custody status, parenting agreements including satisfaction and adherence, child support, alimony, quality and quantity of social support and finally, measures of individual and family well-being related to indicators of stress and resources”).

253. *See id.* at 267.

254. *See id.* at 267-70 (explaining the results of the data gathered and detailing their significance).

255. *See supra* notes 253-54 and accompanying text.

256. *See, e.g.*, Soderman, Ellard & Eveland, *supra* note 155, at 47.

257. *See id.*

258. *Id.*

259. *See id.* at 54 (explaining that the study revealed that some participants had not asked questions due to privacy concerns and arguing that such opportunities must be available).

260. *See supra* Subsection II.B.1.

of evaluation is quite limited, there is a prototype for improvement available.²⁶¹ A shift toward comparative parental self-evaluation and long-term follow-up—implemented through increased intervention by the courts—would address many of the limitations of the exit survey and parental self-evaluation itself.²⁶²

C. Court Involvement: An Overview

Courts have undeniably acknowledged the importance of parent-education programs in improving the lives of families.²⁶³ From the programs' widespread implementation, to the expenses and resources they require, it is evident that as far as the state is concerned, they are a worthwhile endeavor.²⁶⁴ It is, therefore, surprising that courts are not more involved in evaluating the programs themselves.²⁶⁵

While the number of parent-education programs has grown steadily in recent years, courts have not responded with a tangible interest in their outcomes.²⁶⁶ In fact, the majority of courts are not involved in evaluating the programs at all.²⁶⁷ This anomaly can be explained quite simply: Courts lack the resources to properly evaluate parent-education programs.²⁶⁸ As the programs were gaining momentum in the 1990s, courts dedicated considerable resources to their implementation and development.²⁶⁹ However, once the

261. See *supra* Subsection II.B.2.

262. See *infra* Part III.

263. See *supra* notes 17-18 and accompanying text (explaining that the majority of states currently offer parent education for divorcing parents).

264. See Sigal et al., *supra* note 14, at 126.

265. See Cookston et al., *supra* note 189, at 190 (explaining that the majority of courts do not "evaluate their programs for efficacy").

266. See *id.* ("Despite the growing number of county courts implementing programs designed to help families cope with the transition to divorce, family courts have not emphasized implementing programs that research has demonstrated to be efficacious").

267. See *id.* (explaining that the majority of courts do not "evaluate their programs for efficacy").

268. See Salem, Sandler & Wolchik, *supra* note 124, at 133.

269. See *id.* ("When an innovation, such as a court-affiliated parent education program, is in the process of development and initial implementation, as was the case during the 1990s, it commands time, energy and resources from judges, administrators and providers, to make certain that it is functioning well and that stakeholders' needs are adequately addressed.").

programs were established, courts were forced to redirect their energies and resources to other, more pressing matters.²⁷⁰

Courts are involved, however, in one limited aspect—they generally require proof of completion of the programs.²⁷¹ In cases where attendance is mandatory, courts will generally require proof of attendance before issuing a final order.²⁷² For example, in Kentucky—where attendance is mandated via court rule—the rule states: “If ordered to attend the Parent Education Clinic, proof of attendance must be submitted with the Motion to Submit referred to above.”²⁷³

In Washington, the court rule mandating parent-education classes actually sets forth requirements beyond just attendance.²⁷⁴ While proof of attendance is one requirement,²⁷⁵ the court rule also sets forth numerous requirements of the programs themselves.²⁷⁶ The rule sets forth specific standards for the providers,²⁷⁷ outlines the minimum content that must be covered,²⁷⁸ details the minimum

270. *See id.* (“[T]hese innovations are typically one small piece of a larger agenda of the court or agency; therefore, once a program is established, it is natural for the additional attention and resources to be redirected toward other court or agency needs.”).

271. Note, however, that waivers are available in some cases, in which case attendance, and proof thereof, would not be required. *See, e.g., Parent Education Program*, CLACKAMAS COUNTY, <http://www.clackamas.us/ccrs/parents.html#11> [<https://perma.cc/F2PF-KB4U>] (last visited Nov. 6, 2016) (“Clackamas County Resolution Services does not have authority to waive the class requirement. If you wish to request a waiver of the class requirement you can discuss this with your attorney or the judge hearing your case.”); *Parent Education Programs*, MASS. CT. SYS., <http://www.mass.gov/courts/court-info/trial-court/pfc/pfc-parent-education-providers.html> [<https://perma.cc/F2QD-76N3>] (last visited Nov. 6, 2016).

272. *See, e.g., Ohio Cuyahoga Cty. C.P. Ct. Dom. Rel. R. 34(D)* (“The Court shall not conduct a hearing or enter a final order allocating the primary rights and responsibilities for a child, grant shared parenting, modify the allocation of parental rights and responsibilities or modify and/or enforce visitation to or on behalf of any parent who has not completed the court approved seminar.”).

273. *See Ky. 56th Cir. Ct. R. 708.*

274. *See Wash. Spokane Cty. Sup. Ct. R. 94.03.*

275. *See id.* R. 94.03(b) (“Successful completion shall be evidenced by a certificate of attendance filed by the provider agency with the court.”).

276. *See id.*

277. *See id.* R. 94.03(g) (“Approved Parenting Seminars shall be those offered by providers who comply with seminar content requirements as specified in this rule.”).

278. *See id.* R. 94.03(h) (“The seminar content will be approved by the Committee, and shall include, at a minimum: (1) the developmental stages of childhood; (2) stress indicators in children; (3) age appropriate expectations of children; (4) the impact of divorce on children; (5) the grief process; (6) reducing

required credentials for instructors,²⁷⁹ provides that specific referral resources be made available to participants, and institutes an oversight committee composed of members of the court and specialists from the legal and mental health professions.²⁸⁰ This rule provides a concrete example of one means of increased court involvement and oversight of the programs, with relatively little effort and expense.²⁸¹

The Washington court rule provides an example of increased court involvement in mandatory education, and demonstrates a continued interest in the program's implementation, quality, and efficacy.²⁸² Unfortunately, in almost all cases, court evaluation of the programs is limited to proof of attendance, with no further inquiry into the effects of the program.²⁸³ However, the Washington model is proof that further involvement from courts is possible and that reform in the evaluation of mandatory parent education is an achievable goal.²⁸⁴

III. OUTLINING COMPREHENSIVE EVALUATION OF PARENT EDUCATION

The debate surrounding parent-education has traditionally revolved around arguments either for or against the programs themselves.²⁸⁵ Instead, the focus must be on developing ways to

stress for children through an amicable divorce; (7) the long term impact of parental conflict on children; (8) visitation recommendations to enhance the child's relationship with both parents; (9) financial obligations of child rearing; (10) conflict management and dispute resolution; (11) communication skills for divorced parents; (12) practical skills for working together; and (13) the impact on children when stepparents and blended families enter their lives.”).

279. *See id.* R. 94.03(i).

280. *See id.* R. 94.03(j)-(k) (“During the seminar, referral resources will be made available to the parents and their children, including individual and family counseling, drug/alcohol counseling, anger management counseling, parenting classes, etc.”).

281. *See id.*

282. *See id.* R. 94.03(k) (“The Parent Education Committee shall be a standing sub-committee of the Spokane County Superior Court and shall consist of at least one judge, one court commissioner, one or more representatives of local dispute resolution agencies, one or more marriage and family therapists, one or more private attorneys, and others as appropriate.”).

283. *See supra* notes 271-73 and accompanying text.

284. *See Wash. Sup. Ct. R. 94.03.*

285. *See supra* Section I.D (describing modern critiques of parent education).

reliably ascertain the actual effects of parent education.²⁸⁶ Improving evaluation is the solution.²⁸⁷ There are currently multiple modes of evaluating mandatory parent education—ranging from no evaluation whatsoever to comprehensive long-term studies.²⁸⁸ Yet, with all the evidence pointing toward a need for an evidence-based approach to direct evaluation, many programs utilize only cursory exit-interview-style evaluation.²⁸⁹ The most realistic solution to effectively assessing parent education is comparative parent self-evaluation paired with expert long-term follow-up.²⁹⁰ While direct parental self-evaluation can be an effective and enlightening mode of assessing mandatory parent education, in order to ensure its efficacy and universal application, courts must play a larger role.²⁹¹ If, as in all other areas of divorce and custody proceedings, courts are involved in prescribing specific evaluation guidelines, the result will be a suitable and sustainable means of gathering reliable information from which to assess court-mandated parent-education programs.²⁹² Although implementation of such assessment will certainly have its obstacles, it is not impossible.²⁹³ Given what is at risk—the welfare of children—these obstacles must be overcome.²⁹⁴

A. Why Evaluation Is Necessary

Before exploring the proposed model of evaluation for parent-education programs, it is worthwhile to briefly establish why eliminating evaluation altogether is not an option.²⁹⁵ Evaluation of the programs is necessary for many reasons.²⁹⁶ The first and most

286. See *infra* Section III.B.

287. See *supra* Section I.D.

288. See *supra* Part II.

289. See *supra* Subsection II.B.1.

290. See *infra* Section III.A.

291. See *infra* Section III.C.

292. See *infra* Section III.C.

293. See *infra* Section III.C.

294. See Salem, Sandler & Wolchik, *supra* note 124, at 133 (arguing that all programs—even those that are well-established and widely accepted as positive—should continue efforts to evaluate their programs and “take stock of their practices”).

295. See *id.* (maintaining that evaluation “provides an opportunity to assess what is actually being done in the program and whether the program goals are being accomplished and to identify ways to improve the service”).

296. See Hughes & Kirby, *supra* note 188, at 54-55 (explaining the rationales for improved evaluation).

pressing reason is funding.²⁹⁷ This rationale for evaluation coincides with Professors Hughes and Kirby's goal of cost-efficiency.²⁹⁸ While parents generally have to pay a fee in order to attend the parenting classes,²⁹⁹ most of the funding comes from the state.³⁰⁰ In order to justify both current and future funding of the existing programs, it is necessary to demonstrate the actual impact and effectiveness of the programs.³⁰¹ In essence, it is crucial to show that the programs—requiring enormous amounts of time, money, and other resources—are worthwhile.³⁰² The justification for funding, however, is itself derived from other rationales for evaluation.³⁰³

One line of reasoning involves establishing whether the programs have had a positive effect on parents and children.³⁰⁴ This rationale for assessment coincides with the goals of efficacy and effectiveness.³⁰⁵ Here, evaluation is justified as a necessary means of establishing whether the programs have had lasting behavioral consequences for parents³⁰⁶ and subsequent positive effects on the children involved.³⁰⁷ Evaluation is the only method of determining what changes are occurring as a result of the programs, whether the programs have had a positive impact on families, and how that impact affects the best interests of the children.³⁰⁸

Finally, the third objective of evaluation—formative evaluation—concerns the program itself.³⁰⁹ Here, the focus is on how the program can be improved in order to more properly reach its

297. See DEBORD, *supra* note 118, at 8.

298. See Hughes & Kirby, *supra* note 188, at 54.

299. See, e.g., *Putting Children First*, *supra* note 125 (noting that the cost of the program is \$80.00 per person).

300. See, e.g., *New Beginnings*, *supra* note 124 (noting various funding options from state resources); see also Salem, Sandler & Wolchik, *supra* note 124, at 132 (stating that parent-education programs are eligible for state and federal funding).

301. See DEBORD, *supra* note 118, at 8.

302. See *id.* (explaining that facilitators of parent education will want to ask themselves and others if the time spent in the program was “worth it”).

303. See *infra* notes 304, 309 and accompanying text.

304. See DEBORD, *supra* note 118, at 8 (discussing that one reason to evaluate programs is to ensure that they have a positive impact on participants).

305. See Hughes & Kirby, *supra* note 188, at 53-54.

306. See Schaefer, *supra* note 21, at 492 (“[L]egislation mandates informational classes that focus on the harm children suffer as a consequence of divorce and on behaviors parents should change in order to reduce the damage.”).

307. See *id.*

308. See DEBORD, *supra* note 118, at 9.

309. See *id.* at 10.

underlying goals.³¹⁰ Such evaluation ensures that programs are constantly developing and transforming in order to best meet their goals.³¹¹ While understanding the strengths and weaknesses of the program itself is a worthwhile consideration, it should not become the focus of the evaluations, as is the case in some instances.³¹² It is, however, a key component of ensuring the efficacy of parent education.³¹³

Evaluation is undoubtedly an essential element of parent-education programs.³¹⁴ Regardless of the objectives motivating evaluation, it is not something that can be overlooked or omitted.³¹⁵ In order to ensure that the objectives of evaluation are being met—especially understanding the programs' effects on the parents and their children—there must be collaboration between parents and courts, probative pre- and post-program evaluation, and long-term follow-up with families.³¹⁶

B. The Solution: A Model of Parent-Education Evaluation

In an ideal world, courts would have unlimited funding and resources, and those same judges, guardians ad litem, friends of the court, and psychologists who are involved in some stages of divorce cases,³¹⁷ would also carefully conduct, monitor, and evaluate parent-education programs. Alternatively, long-term scientific studies would evaluate each and every program throughout the country at regular intervals.³¹⁸ The reality, however, is that these are simply not practical options³¹⁹—instead, this model presents realistic reform for

310. *See id.*; *see also supra* note 20 and accompanying text (explaining that the goals of parent education are to assist in healthy post-divorce adjustment of parents and children).

311. *See supra* note 20.

312. *See supra* note 213-16 and accompanying text.

313. *See* Blaisure & Geasler, *supra* note 118, at 511 (discussing the role of formative evaluation).

314. *See* Salem, Sandler & Wolchik, *supra* note 124, at 133 (arguing for continued efforts to evaluate programs).

315. *See supra* note 198 and accompanying text (noting the frequency with which online programs go without evaluation).

316. *See infra* Subsections III.B.1-3.

317. *See supra* note 43 and accompanying text.

318. *See* Goodman et al., *supra* note 176, at 270-71 (outlining the rigorous evaluative methodology of one such study).

319. *See supra* note 228 and accompanying text (explaining the taxing methods employed by long-term studies).

direct evaluation of parent education.³²⁰ In order to present a model of evaluation that is both efficient and effective, the model must address how and when evaluations are to be completed,³²¹ what the substance of the evaluations should include,³²² and what role the courts will play in implementation.³²³

1. *Requiring Comparative Evaluation: Pre- and Post-Program Evaluations*

The model of parent-education evaluation necessarily begins with the type of evaluation that must be completed.³²⁴ The exit survey questionnaire provides little, if any, insight into the efficacy of these programs.³²⁵ Self-evaluations that include pre-program assessment compared with post-program assessment have been shown to be extremely informative.³²⁶ Consequently, the exit survey must be replaced with a system that allows for comparative analysis.³²⁷ The answer is to require parents to complete self-evaluation forms—one before the start of the program and another upon completion.³²⁸ Comparative evaluation will demonstrate changes that have occurred as a result of the program and provide insight into its efficacy and limitations.³²⁹ Furthermore, this approach will answer the call for a more scientific approach to parent-education evaluation.³³⁰ This type of evaluation is currently utilized in long-term studies of the programs; therefore, a prototype exists

320. See *infra* Subsections III.B.1-4.

321. See *infra* Subsection III.B.1.

322. See *infra* Subsection III.B.3.

323. See *infra* Subsection III.B.4 (outlining measure for increased court involvement).

324. See *supra* Section II.B (detailing the various types of evaluation in practice).

325. See *supra* Subsection II.B.1 (detailing the flaws of exit survey evaluation).

326. See *supra* Subsection II.B.1.

327. See Cookston et al., *supra* note 189, at 192 (explaining “that there may be a great benefit to the public by adding such empirically validated—or ‘evidence-based’—preventive intervention programs to the services currently offered by the courts”).

328. See *supra* Subsection II.B.2 (detailing a system of comprehensive pre- and post-test evaluation).

329. See Goodman et al., *supra* note 176, at 271 (“[P]retesting and post-testing [should] be included to assess program effects on change over time.”).

330. See *supra* notes 228-29 and accompanying text (detailing the movement toward a scientific approach).

upon which to model implementation.³³¹ Although this system of evaluation has yet to be implemented in terms of direct parental self-evaluation, this can be achieved with little effort.³³²

In most instances, programs give participating parents a questionnaire to be completed after the program has concluded³³³—the change simply requires providing one at the start of the program as well. The questionnaires would have many of the same questions, depending on the particular goals of the program, allowing specialists to assess parental knowledge and track changes as the result of the program.³³⁴ These evaluations, paired with long-term follow-up, can result in informative and helpful assessment of the programs.³³⁵ However, absent the involvement of trained professionals overseeing assessment, there is no check on the inaccuracies and outright falsehoods that may be promulgated via self-evaluation.³³⁶

2. Long-Term Follow-Up and Expert Involvement

While pre- and post-test evaluation provides information regarding the immediate effects of parent-education programs, long-term follow-up provides insight into where those effects have lasting consequences.³³⁷ The goals of parent-education programs are not limited to the immediate future nor should their evaluations be so limited.³³⁸ Assessing the long-term implications of parent-education programs has been particularly indicative of lasting behavioral changes.³³⁹

331. For another example of such a study, see the extensive evaluation of the PEACE (Parents' Education About Children's Emotions) program. Patrick C. McKenry, Kathleen A. Clark & Glenn Stone, *Evaluation of a Parent Education Program for Divorcing Parents*, 48 FAM. REL. 129, 132-35 (1999).

332. See *infra* Subsection III.B.4.

333. See *supra* note 206 and accompanying text.

334. See *supra* note 239 and accompanying text (explaining how pre- and post-testing can be used to track change).

335. See Becher et al., *supra* note 205, at 266 (detailing how these methods were used in the extensive evaluation of the Parents Forever Program).

336. See *supra* Subsection II.B.1.

337. See, e.g., Soderman, Ellard & Eveland, *supra* note 155, at 45.

338. See Goodman et al., *supra* note 176, at 271-74 (emphasizing the need to understand the effect of parent education over time).

339. See Becher et al., *supra* note 205, at 272 (“A 6-month follow-up increases the likelihood that the results reported are sustained behavioral change versus an immediate, short-term impact that disappears over time.”).

Additionally, long-term follow-up provides parents with an outlet to voice concerns, ask questions of their own, or request access to other resources.³⁴⁰ The goals of parent-education programs all center on helping parents going through divorce to understand the effects of this transition on their children and equipping them with the knowledge and tools necessary to put the interests of their children first.³⁴¹ Because of this, parents must be given an outlet of their own, and the follow-up interview provides just that.³⁴²

Moreover, follow-up interviews allow for professional intervention in a system of evaluation that—up until this point—has been completed entirely by parents.³⁴³ Accepting the limitations implicit in parental self-evaluation, there must be an objective checkpoint in the system.³⁴⁴ Professional oversight at this level is key to ensuring reliable and useful data.³⁴⁵

Professional involvement would come at an expense; however, many programs already have qualified facilitators,³⁴⁶ eliminating the need to involve new parties and lowering costs. Furthermore, professional involvement need not be extensive and can be accomplished with relatively brief phone interviews in most cases.³⁴⁷ And, while the expense involved is not to be dismissed, it is essential to remember that where courts have mandated parent-education programs, they have clearly found good cause to intervene in the

340. See, e.g., Soderman, Ellard & Eveland, *supra* note 155, at 44, 58.

341. See Sigal et al., *supra* note 14, at 126 (explaining the various goals of parent education).

342. See *supra* notes 255-59 and accompanying text.

343. See Becher et al., *supra* note 205, at 262, 272 (discussing the weaknesses of self-reporting).

344. See *id.* at 272.

345. See, e.g., Wash. Sup. Ct. R. 94.03(g), (i) (“Instructors should have the following minimum credentials and experience: (1) a master’s degree in social work, psychology or other related behavioral science; (2) supervised experience in treatment of emotionally disturbed children, adolescents and their families; (3) experience in providing a wide range of mental health services to children and families, with specific experience in the areas of separation/divorce, loss and grief, and blended families; (4) extensive knowledge of child development, age appropriate expectations for children, and positive parenting; (5) an ability to work with others (both groups and individuals) as part of a collaborative program; and (6) strong oral communication skills.”).

346. See *id.* R. 94.03(g).

347. A court might consider having a guardian ad litem or friend of the court—already appointed to the case in many instances—follow up via phone interview. See, e.g., Jellinek, Erwin & Bagnell, *supra* note 8, at 384-85.

lives of families.³⁴⁸ The use of comparative evaluation and long-term follow-up resolve the issues of when and how evaluation is to take place; however, the substance of the questions is also important.³⁴⁹

3. *Probative Questioning: Modifying the Substance of Evaluation*

Several issues exist with respect to the types of questions posed in parent-education evaluation.³⁵⁰ One of the central concerns with the exit interview approach to evaluation is the perfunctory nature of questioning.³⁵¹ Furthermore, there is concern regarding formative evaluation and its tendency to dominate—questions must relate to the goals of the programs and not only to the programs themselves.³⁵² The majority of questions must focus both on showing how parental behavior affects the welfare of the children, and if negative parental behavior is being addressed and improved by the program.³⁵³ These questions must be probative, focused on parental behavior and its effect on children, and designed to encourage positive realizations and changes in parental thinking.³⁵⁴ Though it would be impossible

348. See Salem, Sandler & Wolchik, *supra* note 124, at 143 (“[Mandated] services are appropriate for parents who are behaving in a way that the court deems to be harmful to their children’s well-being. Such behaviors might include intimate partner violence or chronic high levels of inter-parental conflict, particularly conflict that puts the children in the middle or that involves repeated re-litigation over issues of parenting time, which leads to a lack of family stability. . . . These programs might be mandated by the court based on legal standards and judicial findings of parental behaviors that are potentially harmful to the child’s well-being.”).

349. See *supra* Subsection II.B.2.

350. See *infra* notes 351-52 and accompanying text.

351. See *supra* notes 208-09 and accompanying text.

352. See Blaisure & Geasler, *supra* note 118, at 501-02, 511 (“Most court-connected programs for divorcing parents continue formative evaluation efforts, and only recently have programs obtained more summative data.”).

353. See, e.g., Becher et al., *supra* note 205, at 266-67.

354. For examples of probative evaluation questions, see *id.* (“1. How often do you encourage your children to spend time with the other parent? 2. How often do you talk badly about or put down the other parent in front of the children? 3. How often have you experienced conflict with the child’s other parent that children observed? 4. How often do you talk to your children about feelings they are experiencing in the divorce process? 5. How often do you think your children have felt put ‘in the middle’ of a difficult situation between you and the children’s other parent? 6. How often do you feel you’ve cooperated effectively in coparenting children with the other parent? 7. How often do you think you’ve communicated successfully about issues of parenting with the other parent? 8. How often have you felt angry or upset due to communication difficulties with the other parent? 9. How often have you been able to control angry or negative responses to the other parent

to proffer a standardized questionnaire to be uniformly implemented due to the unique goals of individual programs, there are excellent examples in existence.³⁵⁵ Furthermore, there are online databases and guides dedicated to helping programs match their evaluations with their goals.³⁵⁶ If further standardization is desired, a database of approved question for parent-education evaluation could certainly be created.³⁵⁷ While formative evaluation can no longer be the focus, it remains a component.³⁵⁸ The end result must be varied questions whose answers yield summative data.³⁵⁹

4. *Increasing Court Involvement: Requiring Proof of Meaningful Evaluation*

Implementation of this model of evaluation can be achieved with minimal effort and resources.³⁶⁰ Requiring additional court involvement in this context is consistent with courts' vigilant involvement in child custody more generally.³⁶¹ Matters involving child custody are strictly governed by a rigid standard that allows no other considerations beyond those of the children involved.³⁶² Parent-education programs are a direct result of child-custody jurisprudence, and as a result, must be overseen with the same vigilance.³⁶³

in handling family issues?"); *see also id.* at 266 (listing several examples of probative and effective questioning).

355. *See* Hughes & Kirby, *supra* note 188, at 59 (stating that "it is probably not possible to completely standardize the measure of knowledge").

356. For an example of a website that allows practitioners to formulate their evaluations based upon the needs of their program and their target demographic, *see Sample Parenting Education Evaluation Form*, PERFORMWELL, <http://www.performwell.org/index.php/find-surveyassessments/programs/child-a-youth-development/parenting-skills-early-childhood/sample-parenting-education-evaluation-form> [https://perma.cc/Q4CR-WF3J] (last visited Nov. 6, 2016).

357. *See* Hughes & Kirby, *supra* note 188, at 59 ("[T]here could be a common data bank of questions that could be developed that program developers could use to select items.").

358. *See supra* note 213 and accompanying text. That is not to say that there cannot be a certain amount of questions regarding the program itself; however, those questions cannot be the focus as they are not in line with the goals of the programs with regard to the best interests of the children. *See* Blaisure & Geasler, *supra* note 118, at 511.

359. *See* Blaisure & Geasler, *supra* note 118, at 511.

360. *See* Erickson & Ver Steegh, *supra* note 51, at 908.

361. *See supra* notes 10-11 and accompanying text (discussing the best interests of the child standard and what it requires of courts).

362. *See supra* notes 10-11 and accompanying text.

363. *See supra* notes 10-11 and accompanying text.

In managing divorce as a whole, courts strive for consistency and objectivity.³⁶⁴ The same approach can be used in overseeing and ensuring evaluation of mandated parent-education programs.³⁶⁵ Most states currently have either statutes or court rules mandating parent education in all or certain circumstances.³⁶⁶ Amending these statutes and rules to include particular directives with regard to evaluation of the programs would achieve universal implementation of a comprehensive system of evaluation at a minimal cost to the state.³⁶⁷

The added directives can be addressed in a few short provisions.³⁶⁸ Utilizing the Washington court rule as a model, a provision specifying the method of evaluation—implementing pre- and post-test assessment of the program—can simply be added to existing provisions.³⁶⁹ Furthermore, in terms of long-term follow-up and the use of qualified experts, a provision detailing qualifications of program administrators need only be added—or in the case of the Washington rule—amended to provide that these same experts conduct the follow-up interviews.³⁷⁰ The Washington rule provides an example of court oversight that is achieved with a few short paragraphs.³⁷¹ The proposed model can be just as easily implemented with the addition of specific statutory language.³⁷² No other effort is required by the state in order to achieve the present goal.³⁷³

Reforming direct parent-education evaluation involves changing the modes of evaluation by looking to examples from the scientific community.³⁷⁴ It necessarily involves parental self-

364. See Jellinek, Erwin & Bagnell, *supra* note 8, at 385 (“Continuing the custody team with some limitation on changes (especially rotation of the judge off the case, strategic use of delays, or filing of motions to disrupt the team). Use of regularly scheduled, required status conferences to update the court and, pre-planning (schedules, major decisions) to prevent disputes.”).

365. *See id.*

366. *See supra* Subsection I.B.2 (discussing the various methods of implementation).

367. *See* Erickson & Ver Steegh, *supra* note 51, at 909 (discussing the amendment of statutes to better suit parent-education goals).

368. *Id.*

369. *See* Wash. Sup. Ct. R. 94.03 (outlining numerous provisions beyond just the mandate of attendance).

370. *See id.*

371. *See id.*

372. *See id.*

373. *See supra* note 367 and accompanying text.

374. *See supra* Subsection III.B.2.

evaluation—and all of the concerns that arise with self-evaluation.³⁷⁵ In order to mitigate these apprehensions, pre- and post-program evaluation paired with expert follow-up will allow insight into changes that have occurred over time as a direct result of the programs.³⁷⁶ As a result of court involvement, this mode of evaluation will become standardized and the data that results will be germane to the goals and concerns underlying parent education.³⁷⁷ This model speaks to much of the existing debate in the field; however, additional concerns must be addressed.³⁷⁸

C. The Costs of Reform: Critiques of the Comprehensive Evaluation Model

A comprehensive model of evaluation responds to many of the critiques of the programs themselves.³⁷⁹ The dominant critiques concern the effects of parent education on parents and children.³⁸⁰ If standardized comprehensive evaluation is implemented for every parent-education program across the country, tangible data on the effects of the programs will no longer be reserved for the select few programs that receive the attention of long-term studies.³⁸¹ Standardization of evaluations will level the playing field so that evaluations of a program's efficacy will no longer be left to the posturing of critics, but instead, tangible data will be available for analysis.³⁸²

A significant critique of the model itself is that it creates an even greater imposition on families already experiencing a challenging transition.³⁸³ The imposition is both a personal one and a

375. See Schaefer, *supra* note 21, at 503 (“While parents may *report* changes in their attitudes and expectations, there is little evidence to suggest that parents participating in these programs *behave* differently from other parents; they generally do not have lower re-litigation rates, better parent-child relationships, or better records of coping with divorce.”).

376. See *supra* Subsections III.B.1-2.

377. See *supra* Part III.

378. See *infra* Section III.C.

379. See *supra* Section I.D (discussing critiques of parent education in general).

380. See Schaefer, *supra* note 21, at 501 (arguing that studies have not been able to show that parent-education programs have positive effects on children).

381. See Goodman et al., *supra* note 176, at 270-71 (outlining evaluation criteria for an expansive long-term study).

382. See *id.*

383. See *supra* note 8 and accompanying text (discussing the challenges of divorce).

financial one.³⁸⁴ The first concern is that this model allows courts greater power over families simply because the parents have chosen to divorce.³⁸⁵ However, relative to the goals of the programs and keeping in mind the best interests of the child standard, this added imposition is minimal.³⁸⁶ While this model does not address the concerns of parents struggling to pay for parenting classes, it should not add to this burden.³⁸⁷

The proposals outlined in the model include utilizing additional print questionnaires with the help of existing databases and other resources, and implementing long-term follow-up with someone specialized in the area of parent education.³⁸⁸ Although there are costs associated with the creation of detailed pre- and post-program questionnaires, along with a long-term follow-up interview, there are excellent resources and models available.³⁸⁹ Due to the resources currently available, the cost of additional questionnaires will be negligible.³⁹⁰ With minimal effort, program directors can tailor questionnaires to their particular purposes based on scientifically tested data and surveys—the end result being a professional and insightful evaluation of the program.³⁹¹ There are also more comprehensive models and tools available that walk the program director through all aspects of parent-education programs—from implementation to evaluation.³⁹² One solution to reduce the potential cost of expert involvement is that program facilitators be trained to conduct follow-up interviews via telephone.³⁹³ Compared with in-person interviews, this would both reduce costs and impose less on parents' time.³⁹⁴ Moreover, many programs have fee waivers

384. See *supra* note 125 and accompanying text (detailing the costs of classes to parents).

385. See Schaefer, *supra* note 21, at 491-92 (discussing the burden on parents as parent education has become “an established and mandatory stop on parents’ path to divorce”).

386. See Sigal et al., *supra* note 14, at 126 (explaining the child-centered goals of parent education).

387. See *supra* note 126 and accompanying text.

388. See *supra* note 356 and accompanying text (discussing a database that directs practitioners to a bank of questions based on their target demographic and goals).

389. See *supra* note 356 and accompanying text.

390. See *supra* note 356 and accompanying text.

391. See *supra* note 356 and accompanying text.

392. See DEBORD, *supra* note 118.

393. See *supra* note 257 and accompanying text.

394. See *supra* note 257 and accompanying text.

available so that the cost to parents is either greatly reduced or nonexistent.³⁹⁵

Another criticism of this proposal inevitably returns to expense—this time in terms of the costs to the state.³⁹⁶ The model requires additional directives from courts, yet they involve no affirmative action apart from the amendment of certain statutes and rules.³⁹⁷ This would of course take time, but once an effective example is in circulation it can be easily tailored to particular statutes or rules.³⁹⁸ Critics will still argue that this model creates costs for the state and that those resources are needed elsewhere.³⁹⁹ However, by employing a public-health perspective⁴⁰⁰ and recognizing the potential mental- and physical-health issues associated with children of divorce, the long-term consequences of such issues, and the inevitable costs these issues create—it is evident that increased evaluation efforts will likely result in reduced costs to the state overall.⁴⁰¹

The proposed model of evaluation would implement comprehensive evaluation of all parent-education programs and not just those selected for limited study.⁴⁰² Although this model would result in costs to the state and families, these costs stem from the underlying goal of improving children's lives and are thus adequately justified.⁴⁰³ Moreover, there are numerous ways of reducing or eliminating costs altogether.⁴⁰⁴ The proposed model thus justifies added expenditures and impositions in order to potentially eradicate, or at least lessen, the harmful effects of divorce.⁴⁰⁵ If the best interests of the child is what concerns us, isn't it worth it?⁴⁰⁶

395. See *Parent Education Program*, CLACKAMAS COUNTY, *supra* note 271 and accompanying text.

396. See *supra* note 124-26 and accompanying text (discussing the availability of fee waivers for certain families).

397. See *supra* Subsection III.B.4 (detailing increased court involvement).

398. See *supra* Subsection III.B.4.

399. See *supra* note 270 and accompanying text (explaining how parent education is but one component of the issue facing courts and that their resources are needed elsewhere).

400. See generally Salem, Sandler & Wolchik, *supra* note 124, at 137-38.

401. See Mitchell-Phillips, *supra* note 54, at 160.

402. See *supra* Section III.B.

403. See *supra* Subsection I.A.2.

404. See *supra* notes 393-95 and accompanying text (discussing alternative to reduce costs).

405. See *supra* Subsection I.A.2.

406. See *supra* Subsection I.B.1 (detailing the best interests of the child standard).

CONCLUSION

Given the enormity of what is at stake in educating divorcing parents, reform to the current methods and modes of evaluation is essential.⁴⁰⁷ The best interests of the child standard—so closely protected throughout judicial proceedings—is somehow forgotten at this level of intervention.⁴⁰⁸ Parent-education programs are consistently left unassessed, opening the door for scathing critiques of the programs despite the positive goals that lie in their foundation.⁴⁰⁹ In order to assert the integrity of parent education, programs must be held accountable in a consistent and comprehensive manner.⁴¹⁰

By instituting a standard model of evaluation, all parent-education programs will be able to efficiently and effectively evaluate themselves.⁴¹¹ Comparative self-evaluation and long-term expert follow-up will become the standard with minimal added government intervention.⁴¹² Data will be readily available regarding the effects parent education has on parents and children.⁴¹³ The state, which has already invested so much in these programs, can be assured that they are serving their purposes and the best interests of children or, if evidence points to the contrary, make changes to the programs to ensure that this is the case.⁴¹⁴ In the end, both families and facilitators—along with critics of parent education—can be assured that the programs are reaching their important goals.⁴¹⁵

407. *See supra* Sections I.A-B.

408. *See supra* Subsection I.B.1.

409. *See supra* Section I.D.

410. *See supra* Part III.

411. *See supra* Section III.B.

412. *See supra* Section III.B.

413. *See supra* Section III.B.

414. *See supra* Subsection III.B.4.

415. *See supra* Part III.