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# Facilitating Forgiveness and Reconciliation in “Good Enough” Marriages

Solangel Maldonado\*

## I. INTRODUCTION

Scholars, policymakers, and parents constantly debate whether divorce is harmful to children and, if so, whether parents should stay together for the sake of the children.<sup>1</sup> The answer to the first question seems well-established. On every measure—academic achievement, conduct, psychological adjustment, self-esteem, and social relations—children with divorced parents, and adults whose parents divorced when they were children, score lower than children and adults whose parents remained married.<sup>2</sup> However, this might be the wrong question to ask. Although children with divorced parents *as a group* do worse than children of intact marriages *as a group*, not all children with divorced parents do worse than children with continuously married parents.<sup>3</sup> Many children flourish despite

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\* Professor of Law, Seton Hall University School of Law. I am grateful to Professor Calvin Sharpe for inviting me to be part of the Forgiveness and Reconciliation Symposium at Case Western Reserve University School of Law. This essay benefitted from the comments of the participants in the Seton Hall Law School Faculty Retreat. Thanks to Jean Paige Patterson, Meghan McSkimming, and the Seton Hall Law School librarians for excellent research assistance.

1. See, e.g., Paul R. Amato, Good Enough Marriages: Parental Discord, Divorce, and Children’s Long Term Well-Being, 9 Va. J. Soc. Pol’y & L. 71, 73 (2001) (“People with conservative political and religious convictions argue that the breakdown of the family is the root cause of most social problems, such as poverty, crime, and drug use. In contrast, liberal and feminist perspectives, with a more tolerant view of divorce, remain strongly entrenched in the media, academic textbooks, and public opinion. These clashing views have led to a debate between those who believe that the family is declining, and those who believe that the family is as strong as ever, only more diverse.”); Walter Kirn et al., Should You Stay Together for the Kids?, Time, (Sept. 25, 2000), available at <http://www.time.com/time/magazine/article/0,9171,998008,00.html>; Ruth A. Peters, Should You Stay Together for the Kids?, Today, (July 19, 2006), <http://today.msnbc.msn.com/id/13924018/ns/today-parenting/t/should-you-stay-together-kids/#.Tn9h1xxgjsQ>.

2. Paul R. Amato, Children of Divorce in the 1990s: An Update of the Amato and Keith (1991) Meta-Analysis, 15 J. Fam. Psychol. 355, 365-66 (2001).

3. See *infra* note 74 and accompanying text.

their parents' divorce and some seem to do better after the divorce.<sup>4</sup> Conversely, many children whose parents remain married do worse than children with divorced parents.<sup>5</sup> Thus, in order to examine whether parents should stay together for the sake of the children, it is important to ask: "Under what conditions is divorce harmful to children?" Social scientists have answered this question, at least in part.<sup>6</sup> In a 2001 article, *Good Enough Marriages: Parental Discord, Divorce and Children's Well-Being*,<sup>7</sup> Paul Amato summarized the results of his longitudinal study showing that the long-term effects of divorce on children's well-being depend on the level of parental discord before the divorce.<sup>8</sup> In cases where the level of discord was high, children actually benefitted from the divorce.<sup>9</sup> In cases where the level of discord was low, children's well-being suffered when their parents divorced and these negative effects seemed to follow them into adulthood.<sup>10</sup> Other studies have confirmed Amato's findings.<sup>11</sup>

Few family law scholars have focused on these studies. Yet these findings could have significant policy implications. If children of low-discord marriages do better when their parents stay married, should the law encourage these couples, who comprise 25 percent of all divorcing couples,<sup>12</sup> to stay together? If so, how?

Most divorcing couples know that divorce will be hard on their children and expect that their children will experience difficulties adjusting to the divorce.<sup>13</sup> They might expect their children to experience behavioral,

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4. See *id.*

5. See *infra* Part II.C.

6. See e.g., Amato, *supra* note 1, at 71–94.

7. *Id.* at 71 (discussing divorce and children's well-being).

8. *Id.*

9. *Id.*

10. *Id.* at 81. When the level of marital discord was moderate, children's well-being was already below average during the marriage and decreased only slightly after the divorce. I focus only on cases where the decrease in children's well-being was significant—specifically, low-discord marriages, which constitute 25% of all divorcing couples. In those cases, children's well-being was above average during the marriage and dropped to below average after their parents' divorce. See *id.* at 82.

11. See generally Thomas L. Hanson, Does Parental Conflict Explain Why Divorce is Negatively Associated with Child Welfare?, 77 *Soc. Forces* 1283 (1999); Susan M. Jekielek, Parental Conflict, Marital Disruption and Children's Emotional Well-being, 76 *Soc. Forces* 905 (1998); D.R. Morrison & M.J. Coiro, Parental Conflict and Marital Disruption: Do Children Benefit When High-Conflict Marriages Are Dissolved?, 61 *J. Marriage & Fam.* 626 (1999).

12. Amato, *supra* note 1, at 81.

13. See Pamela Paul, How Divorce Lost its Groove, *N.Y. Times* (June 17, 2011), available at <http://www.nytimes.com/2011/06/19/fashion/how-divorce-lost-its-cachet.html?pagewanted=all> (discussing parent's fears that divorce will "devastate the kids" and noting that "[t]here's a tacit or explicit recognition among well-educated parents that their kids are less likely to thrive if Mom and Dad can't be together.").

psychological, emotional, academic, and social difficulties for a year or two after the separation. However, despite numerous books and articles describing the negative effects of divorce on children,<sup>14</sup> divorcing parents might not know that divorce can have long-term consequences on their children, effects that are evident even after their children become adults. Furthermore, divorcing couples might not be aware that their children’s adjustment to the divorce and well-being many years later is dependent, at least in part, on whether the level of discord during the marriage was high, moderate, or low. If couples had this information, might it lead low-discord couples to reconsider their decision to divorce? After all, the marriages of low-discord couples who divorced do not appear to be significantly different in quality than the marriages of couples who remained married. Amato found that, when interviewed prior to filing for divorce,<sup>15</sup> 97% of low-discord couples reported having “extremely/very strong” or “pretty strong” feelings for their spouse, 96% rated their level of marital happiness as “very happy” or “pretty happy,” 66% reported going out and having fun with their spouse “almost always” or “usually,” and 77% had no serious quarrels with their spouse in the past month.<sup>16</sup> Most notably, only 14% had thought about divorce in the last three years—a similar percentage as couples that had remained married.<sup>17</sup> In short, their assessment of their marriage was pretty similar to that of couples that did not divorce. As Amato pointed out, from their children’s perspective, these were good marriages.<sup>18</sup>

So why did these low-discord couples divorce? The reasons were rarely infidelity or physical or mental cruelty. Most study participants cited

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14. See, e.g., Paul R. Amato & Alan Booth, *A Generation at Risk: Growing Up in an Era of Family Upheaval* (1997); Judith Wallerstein et al., *The Unexpected Legacy of Divorce: A 25 Year Landmark Study* 167 (2000); Alan L. Otten, *The Lasting Impact of Divorce on Children*, *Wall St. J.*, July 20, 1993, at B1 (reporting a study’s findings that “among the 18-to 22-year-olds from disrupted families, two-thirds had poor relationships with their fathers.”); Barbara Dafoe Whitehead, *Dan Quayle Was Right*, *Atlantic Monthly*, Apr. 1993, at 47 (citing studies concluding that children of single-parent families are more likely to experience academic difficulties, to drop out of high school, “to abuse drugs[,] and to be in trouble with the law”).

15. The median length of time between the interview and the divorce was one year and nine months. *Id.* at 85.

16. *Id.* at 86. This was actually higher than couples who stayed married, 71% of whom reported no serious quarrels with their spouse in the past month. In contrast only 24% of high-discord couples who divorced reported having no serious quarrels with their spouse in the past month. *Id.*

17. *Id.* at 86–88. Only 5% had talked about divorce with their spouse, the same percentage as couples that had remained married. *Id.*

18. *Id.*

general unhappiness, dislike of their partner's personality, or a mid-life crisis (either their own or their spouse's).<sup>19</sup> Interestingly, 10% could not articulate a reason for the divorce.<sup>20</sup> Amato concluded that low-discord couples divorce, not because their marriages are terrible, but because there are few social and legal barriers to divorce.<sup>21</sup>

Some commentators have proposed placing additional legal barriers to divorce, for example, by eliminating no-fault divorce in cases where the parties have minor children.<sup>22</sup> Advocates of covenant marriage<sup>23</sup> have asked couples to give up their right to a no-fault divorce under the state's shorter waiting period and instead commit to a significantly longer waiting period.<sup>24</sup> Most states have not adopted covenant marriages and the majority of couples in the states that offer covenant marriages have rejected them. One reason might be that couples who are most committed to their spouse do not feel the need to place additional barriers to divorce. Another reason is that covenant marriages are binding. Once a couple enters into a covenant marriage, the parties no longer have the option of divorcing under the state's less

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19. *Id.* at 91. See also Amato, *supra* note 2, at 357 (noting that “[s]ome observers have argued that people often terminate their marriages these days for reasons that have more to do with ‘personal growth’ than escaping from destructive relationships.”) (citing Alan Booth, *Causes and Consequences of Divorce: Reflections on Recent Research*, in *The Post Divorce Family: Children, Parenting and Society* (Ross A. Thompson & Paul R. Amato, eds. 1999)).

20. Amato, *supra* note 1, at 91.

21. *Id.* at 90.

22. See Laura Bradford, Note, *The Counterrevolution: A Critique of Recent Proposals to Reform No-Fault Divorce Laws*, 49 *Stan. L. Rev.* 607, 617–20 (1997) (describing fault-based legislative proposals); James Herbie Difonzo, *Customized Marriage*, 75 *Ind. L.J.* 875, 881–82 (2000) (noting that “[c]ounterrevolutionary legal proposals on divorce include . . . restoration of fault as the exclusive dissolution ground; raising the bar of divorce for couples with children . . .” and discussing legislative bills eliminating no-fault divorce for couples with minor children); Katherine Shaw Spaht, *Revolution and Counter-Revolution: The Future of Marriage in the Law*, 49 *Loy. L. Rev.* 1, 28–31 (2003) (discussing increasing hints of a counter revolution).

23. A covenant marriage is

A special type of marriage in which the parties agree to more stringent requirements for marriage and divorce than are otherwise imposed by state law for ordinary marriages. In the late 1990s, several states . . . passed laws providing for covenant marriages. The requirements vary, but most of these laws require couples who opt for covenant marriage to undergo premarital counseling. A divorce will be granted only after the couple has undergone marital counseling and has been separated for a specified period (usually at least eighteen months). The divorce prerequisites typically can be waived with proof that a spouse has committed adultery, been convicted of a felony, abandoned the family for at least one year, or physically or sexually abused the other spouse or a child.

BLACK'S LAW DICTIONARY (9th ed. 2009).

24. See, e.g., LSA-C.C. Art. 103 (allowing parties in a “regular marriage” to seek a no-fault divorce after a six-month separation, but requiring a two-year separation period for a no-fault divorce of a covenant marriage).

restrictive divorce laws.<sup>25</sup> Given that no one can predict what one’s marriage will be like in the future, it is not surprising that few people are willing to commit to a long waiting period before they can seek a divorce. Further, given that children benefit from divorce when their parents’ marriage is plagued by a high level of discord, it may not be in the children’s interest to force parents to stay married simply because they agreed to a long waiting period years prior when, blinded by love, they could not fathom that the marriage could become the source of unhappiness.

Couples entering into covenant marriages also commit to participate in marriage counseling before seeking a divorce.<sup>26</sup> In addition, many states authorize judges to require marriage counseling if the judge believes there is a possibility of reconciliation.<sup>27</sup> Not surprisingly, mandatory marriage counseling has not led to much reconciliation and has been the subject of significant criticism.<sup>28</sup>

Although mandatory counseling and a long waiting period before divorce is unlikely to serve children’s best interests, children might benefit if parents with low-discord marriages were encouraged to reflect on their decision to end the marriage. This essay argues that the law should attempt to “gently” discourage low-discord couples from divorcing by (1) informing them of the long-term negative effects that their divorce may have on their children, and (2) providing them with the resources they need to “save” their marriage if they so desire.

Currently, many states’ no-fault ground for divorce requires a separation period ranging from six months to two years.<sup>29</sup> The goal of the waiting period is to force couples to reflect on their decision to divorce and to experience what life after divorce will be like.<sup>30</sup> However, states have failed

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25. See, e.g., ARIZ. REV. STAT. ANN. § 25-901 (2011); ARK. CODE ANN. §§ 9-11-803–9-11-808 (2011); LA. REV. STAT. ANN. §§ 272–273.1 (2011).

26. ARIZ. REV. STAT. ANN. § 25-901(B)(1); LA. REV. STAT. ANN. § 9:273(A)(1).

27. MASS. GEN. LAWS ch. 208 § 1A (2004); OHIO REV. CODE ANN. § 3105.091 (West 2003); TEX. FAM. CODE § 6.505 (West 2003); KAN. STAT. ANN. § 60-1608 (2003); 23 PA. CONS. STAT. ANN. § 3301 (West 2004).

28. See HERBIE DiFONZO, BENEATH THE FAULT LINE: THE POPULAR AND LEGAL CULTURE OF DIVORCE IN TWENTIETH-CENTURY AMERICA 133–37 (1997) (describing California’s and New Jersey’s unsuccessful attempts in the 1950s to persuade couples seeking a divorce to reconcile). In New Jersey, 97.3% of couples who participated in the state-mandated counseling sessions sought a divorce anyway. *Id.*

29. See, e.g., 15 V.S.A. § 551 (six months); LSA-C.C. Art 103 (six months for regular marriage, two years for covenant marriage); A.C.A. § 9-12-307 (eighteen months); 750 ILCS 5/101 (two years).

30. See, e.g., *Massar v. Massar*, 279 N.J. SUPER. 89 (1995).

to provide couples with any resources during this period of reflection that might facilitate reconciliation. Although many states require divorcing parents to participate in four to six hours of parenting education, these programs focus on co-parenting after divorce.<sup>31</sup> They assume that the participants will be divorcing and, as a result, do not educate parents about the long-term effects of divorce on children's and young adults' well-being. Many states also require divorcing parents to mediate custody and visitation issues.<sup>32</sup> Although there are many benefits to mediation and parenting education,<sup>33</sup> neither purports to provide couples with resources that might help them save their marriage or facilitate reconciliation. The few states that have enacted covenant marriage believe that marriage counseling does provide these tools.<sup>34</sup> In addition, the social science literature suggests that ten hours of group counseling and education may help couples experiencing marital dissatisfaction.<sup>35</sup>

States have devoted significant resources to minimize the negative effects of divorce on children, ranging from strict child support enforcement laws to mediation and parenting education. Given the long-term negative effects of divorce on children of low-discord couples, the cost of marital counseling and education would be worthwhile if it could reduce the divorce rate of low-discord couples even slightly. The challenge is finding programs that are likely to succeed. Social scientists have found that forgiveness interventions can lead to reconciliation.<sup>36</sup> There is also evidence suggesting that spouses who forgive their spouses' transgressions experience greater marital satisfaction.<sup>37</sup> This essay proposes that lawmakers explore the potential of marriage education programs with a forgiveness component, and offer such programs, free of cost, to all married couples who wish to participate. It might increase marital satisfaction and result in fewer divorces.

This essay proceeds as follows. Part II summarizes the social science literature showing the long-term effects of divorce on children and parents. This Part also briefly examines the effect of marital discord on children's well-being. Part III argues that the state should encourage low-discord parents to reconcile by providing them with information about the potential

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31. See *infra* notes 80 and 83, and accompanying text.

32. See *infra* note 81 and accompanying text.

33. See generally Solangel Maldonado, *Cultivating Forgiveness: Reducing Hostility and Conflict After Divorce*, 43 WAKE FOREST L. REV. 441, 469, 475-76 (2008).

34. See, e.g., ARIZ. REV. STAT. ANN. § 25-901 (2011); ARK. CODE ANN. §§ 9-11-803 to 9-11-808 (2011); LA. REV. STAT. ANN. §§ 272-273.1 (2011).

35. See *infra* Part IV (discussing different programs).

36. See *infra* Part IV (discussing different programs).

37. See *infra* Part IV (discussing different programs).

long-term effects of divorce on their children and offer them tools that will help them save their marriage if they so desire. This Part also explores whether these services would pressure parents in low-discord but unhappy marriages to stay together, thereby causing them psychological harm. Part IV examines forgiveness interventions and concludes that marriage education programs that include a forgiveness component may hold promise for reconciliation between low-discord parents.

## II. DIVORCE AND MARITAL DISCORD

### A. Long-Term Effects of Divorce on Children

Most divorcing parents are aware that divorce places children at risk for behavioral, psychological, emotional, and social problems in the short term.<sup>38</sup> Studies have repeatedly found that on every measure—academic achievement, conduct, emotional and psychological adjustment, self-esteem, and social relations—children with divorced parents consistently score lower than children with married parents.<sup>39</sup> These outcomes notwithstanding, parents have also been told that children are resilient and that most children of divorce do not experience long-term effects.<sup>40</sup> That is not entirely true. Although children are resilient and most children of divorce lead happy and successful lives, studies show that children with divorced parents experience higher rates of psychological problems in adulthood.<sup>41</sup> They are more likely than adults with married parents to experience anxiety and depression, to

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38. See generally Paul, *supra* note 13.

39. Amato, *supra* note 1, at 75–76 (summarizing results of 147 studies). The differences are not large, but they are statistically significant. *Id.*

40. See Barbara Meng, *The Effects of Divorce on Children*, CATHOLICCULTURE.ORG, (“Parents are told that if they avoid fighting in front of their children and try to solve financial and legal problems civilly, their children will bounce back quickly.”); ANDREW D. LESTER, WHEN CHILDREN SUFFER: A SOURCEBOOK FOR MINISTRY WITH CHILDREN IN CRISIS 69 (1987) (“Too often, parents are told, ‘Children are resilient. In time, with love and understanding, they will get over it.’”); *3 Lies Parents are Told When Considering Divorce*, PARENTING ADVICE FOR YOUNG MOMS (Feb. 7, 2011), <http://www.youngmoms.org/3-lies-parents-are-told-when-considering-divorce/> (“Children are resilient: They will get over it. While children are a lot stronger than we give them credit for, there are many adults who are still lamenting their parents’ divorce or even blaming themselves for it. The comment that children will ‘get over it’ down plays the significant emotional trauma they will experience when their family and everything they have known is torn apart.”).

41. Paul Amato & Juliana Sobolewski, *The Effects of Divorce and Marital Discord on Adult Children’s Psychological Well-Being*, 66 AM. SOC. REV. 900, 900 (2001).

seek mental health services, and to report unhappiness and dissatisfaction with their lives.<sup>42</sup> Interestingly, studies have found no correlation between the age of a child at the time of their parents' divorce, or the amount of time since the divorce, and an adult child's psychological well-being.<sup>43</sup> In other words, as compared to adults with parents who stayed married, adults with divorced parents experienced higher rates of psychological problems whether their parents divorced when they were six years of age or sixteen years of age and the effects remained twelve years after the divorce.

Adults with divorced parents are also more likely to experience problems in their own intimate relationships and marriages. As compared to adults whose parents remained married, adults with divorced parents report greater dissatisfaction, unhappiness, and conflicts in their own marriage.<sup>44</sup> They are also at higher risk for divorce themselves.<sup>45</sup> Researchers believe that children whose parents divorced "reach adulthood with traits that predispose them to relationship problems, such as a deficit in interpersonal skills, a weak commitment to the norm of a lifelong marriage, or personality characteristics that interfere with relationship harmony and stability."<sup>46</sup>

As compared to adults with married parents, adults with divorced parents are less likely to share close relationships with their parents or to describe their relationships with them in positive terms.<sup>47</sup> They are less likely to have frequent contact with their parents or to obtain assistance from them.<sup>48</sup> Given that most children live with their mothers after divorce and that many fathers have little or no contact with their children after divorce,<sup>49</sup>

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42. *Id.* at 900–01.

43. *Id.* at 907.

44. *Id.* at 905.

45. *Id.* at 903. The risk of divorce is 14% higher for children of divorced parents than for children of parents who remained married. Po Bronson & Ashley Merryman, *Will This Marriage Last?*, TIME, (June 30, 2006), available at <http://www.time.com/time/nation/article/0,8599,1209784,00.html>.

46. Amato & Sobolewski, *supra* note 41, at 905.

47. *Id.* at 904.

48. *Id.* at 904.

49. See TERRY ARENDELL, FATHERS AND DIVORCE 6, 142 (1995) (noting that 15% of the seventy-five divorced fathers interviewed in New York admitted to not having any contact with their children in at least one year, and another 20% admitted to visiting only occasionally); Joan B. Kelly, *Children's Living Arrangements Following Separation and Divorce: Insights from Empirical and Clinical Research*, 46 FAM. PROCESS 35, 38 (2006) (as many as 26% of nonresidential fathers have little or no contact with their children two to three years after divorce); Christine Winquist Nord & Nicholas Zill, Dep't of Health & Human Servs., *Non-Custodial Parents' Participation in Their Children's Lives: Evidence from the Survey of Income and Program Participation* (Aug. 14, 1996) (showing that 31.7% of fathers in its 1990 study had failed to spend time with their children in the previous twelve months). Older studies found that paternal contact gradually decreases over time. See Maggie Gallagher, *Father Hunger*, in LOST FATHERS: THE POLITICS OF FATHERLESSNESS IN AMERICA 163, 167 (Cynthia R. Daniels ed., 1998) (noting that ten years after divorce, "two-thirds of

it is not surprising that adults with divorced parents do not share strong relationships with their fathers. Children who have little contact with their fathers after divorce are unlikely to share strong ties with them when they grow up.<sup>50</sup> However, most mothers may be surprised to learn that children’s ties with their custodial mothers appear weakened by divorce as well.<sup>51</sup> One reason is that children with divorced parents are angry with both parents. One twenty-five-year study found that even children who understood the reasons for their parents’ divorce were angry and thought their parents were selfish for divorcing.<sup>52</sup> For some, this anger persisted decades after the divorce.<sup>53</sup>

Given our society’s celebration of independence, one might not expect parent-child bonds to play a significant role in adults’ psychological well-being. In other words, one might expect these bonds to become less important once children leave home. However, it turns out that children’s relationships with their parents impact their psychological adjustment and

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all children of divorce have virtually no contact with their fathers”); Frank F. Furstenberg, Jr. et al., *The Life Course of Children of Divorce: Marital Disruption and Parental Contact*, 48 AM. SOC. REV. 656, 664 (1983) (noting that contact between children and their nonresident fathers starts to drop off twelve months after separation and drops off dramatically after the second year); Frank F. Furstenberg, Jr. & Christine Winquist Nord, *Parenting Apart: Patterns of Childrearing After Marital Disruption*, 47 J. MARRIAGE & FAM. 893, 895 tbl.1 (1985) (finding that the average child sees their nonresident parent 7.4 days a month in the first two years after separation, but only twice a month after that; and after ten years, 74% of children have no contact with their nonresident parents).

50. See Alan L. Otten, *The Lasting Impact of Divorce on Children*, WALL ST. J., July 20, 1993, at B1 (reporting a study’s findings that “among the 18 to 22-year-olds from disrupted families, two-thirds had poor relationships with their fathers”).

51. Amato & Sobolewski, *supra* note 41, at 904. The negative effect of divorce on children’s relationships with their fathers is greater than the effect on their relationships with their mothers, presumably because most children live with their mothers after divorce. *Id.*

52. JUDITH S. WALLERSTEIN & JOAN BERLIN KELLY, SURVIVING THE BREAKUP: HOW CHILDREN AND PARENTS COPE WITH DIVORCE 87 (1980); Judith S. Wallerstein & Julia M. Lewis, *The Unexpected Legacy of Divorce: Report of a 25-Year Study*, 21 PSYCHOANALYTIC PSYCHOL. 353, 354 (2004).

53. See JUDITH WALLERSTEIN ET AL., THE UNEXPECTED LEGACY OF DIVORCE: A 25 YEAR LANDMARK STUDY 243 (2000) (noting that children can remain angry towards the custodial parent and her spouse (the stepfather) “for many years, well into adult life.”). For example, more than ten years after her parents’ divorce, one study participant reported that she would “never forgive her [mother] for” pushing her father out. *Id.* at 109; see also *id.* at 247 (testimony of thirty-one-year-old man that he would “never forgive [his mother] as long as [he] live[d].”); *id.* at xv (testimony of participant who felt “so much anger” toward her aging and frail parents more than twenty-five years after the divorce); *id.* at 124 (testimony of man admitting that he and his sister could not “be there” for their father who was battling prostate cancer because “[w]e’re still angry at him,” more than twenty-five years after the divorce).

well-being even after they become adults.<sup>54</sup> Studies have found that young adults who share strong emotional bonds with their parents enjoy higher levels of psychological well-being than children who do not.<sup>55</sup> Divorce tends to negatively affect children's relationships with their parents, thereby increasing the risk of psychological problems in adulthood.

Adults with divorced parents also tend to be less financially secure than adults whose parents remained married. Researchers have repeatedly found that children with divorced parents are less likely to finish high school or to attend college.<sup>56</sup> One reason is that divorced parents are less likely to monitor their children's academic progress and are less involved with their children's education.<sup>57</sup> Another reason is that children with divorced parents are less likely to receive financial support for college than children whose parents remained married. One twenty-five-year study found that ninety percent of children whose parents stayed married received substantial financial support from their parents for college as compared to thirty percent of children whose parents divorced.<sup>58</sup> One might think that the solution would be to require divorced parents to contribute to their children's college education as some states have done,<sup>59</sup> but even if the law required college

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54. Amato & Sobolewski, *supra* note 41, at 917.

55. *Id.* at 904-05.

56. *Id.* at 902.

57. *Id.* at 902-03. See Gene H. Brody & Rex Forehand, *Multiple Determinants of Parenting: Research Findings and Implications for the Divorce Process*, in IMPACT OF DIVORCE, SINGLE PARENTING, AND STEPPARENTING ON CHILDREN 128; ROBERT E. EMERY, RENEGOTIATING FAMILY RELATIONSHIPS: DIVORCE, CHILD CUSTODY, AND MEDIATION 217 (1994) ("Parental conflict throughout the divorce transition is a consistent predictor of maladjustment among children, as is the less adequate parenting that characterizes most divorces, at least temporarily."); M. S. Forgatch et al., *A Mediation Model for the Effect of Divorce on Antisocial Behavior in Boys*, in IMPACT OF DIVORCE, SINGLE PARENTING, AND STEPPARENTING ON CHILDREN 144 (E. Mavis Hetherington & Josephine D. Arasteh, eds. 1988); MICHAEL R. STEVENSON & KATHRYN N. BLACK, HOW DIVORCE AFFECTS OFFSPRING: A RESEARCH APPROACH 42 (1995) ("Sometimes temporarily and sometimes permanently, divorced parents are likely to have problems meeting all of the responsibilities of healthy parenting. Houses may not be kept clean; bedtime and mealtime routines may disappear; homework may not be checked. Children may in general not be supervised . . ."); Carol Bruch, *Sound Research or Wishful Thinking in Child Custody Cases? Lessons from Relocation Law*, 40 FAM. L.Q. 281, 287 (2006) (citing studies finding that "[s]tressed-out parents provided only 'seriously diminished parenting' during the upheaval, and the younger children suffered the most serious consequences").

58. Judith Wallerstein & Julia Lewis, *Divorced Fathers and Their Adult Offspring*, 42 FAM L.Q. 695, 707 (2009); see also Barbara Whitehead, *Dan Quayle Was Right*, ATLANTIC MONTHLY, Apr. 1993, at 74 ("Sixty-seven percent of the college-age students from disrupted families attended college, as compared with [eighty-five] percent of other students who attended the same high schools.").

59. All states require parents to support their children until they reach the age of majority. In addition, some states authorize courts to order divorced or separated parents of a child who has attained the age of majority, and is attending college, to provide financial support for the child's college education. See 750 Ill. Comp. Stat. § 5/513(a)(2) (2008); *Johnson v. Louis*, 654 N.W.2d 886

support, children with divorced parents would probably be less financially secure than children whose parents remained married. The reason is that parental support does not come exclusively in the form of tuition or cash, but in emotional and social support. Parents who share strong bonds with their children provide education and career advice—they provide support (including emotional and financial) when adult children buy their first car, buy a home, or get married. Parents help adult children fix up their first home or provide child care to a grandchild. They also connect adult children with other family members and friends who may be able to provide assistance and guidance.<sup>60</sup> Children with divorced parents are less likely to share close ties with parents and thus, are less likely to enjoy these resources as they transition into adulthood.

Many parents who divorce expect to find love again and remarry, and indeed, many do.<sup>61</sup> Unfortunately, divorced parents’ happiness may come at their children’s expense. Studies have shown that parents’ remarriage is associated with further decreases in their children’s well-being. For example, although the gap in the well-being of children of continuously married parents as compared to children with divorced parents is notable, this gap increases significantly when divorced parents remarry. One study found that children who had experienced three or more family transitions (i.e., parents’ divorce followed by each parent’s remarriage or parents’ divorce followed by one parent’s remarriage and second divorce) had

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(Iowa 2002); *In re Marriage of Crocker*, 332 Or. 42 (2001). Divorced parents have challenged these statutes, which do not apply to married parents, as discriminating on the basis of marital status in violation of equal protection. *LeClair v. LeClair*, 137 N.H. 213, 225 (1993), superseded by statute, N.H. Rev. Stat. § 461-A:14 (2008); *In re Marriage of Vrban*, 293 N.W.2d 198, 202 (Iowa 1980) (“the legislature could find, too, that most parents who remain married to each other support their children through college years. On the other hand, even well-intentioned parents, when deprived of the custody of their children, sometimes react by refusing to support them as they would if the family unit had been preserved.”); *Marriage of Crocker*, 332 Or. 42 (2001); *see also* Nicholas Bala, at 1 n.1 (“The experience in the United States . . . is that after separation, relatively few non-custodial parents assist their children with the costs of post-secondary education”). Some courts, applying rational basis review, have rejected these challenges, reasoning that “the legislature could rationally conclude that absent judicial involvement, children of divorce may be less likely than children of intact families to receive college financial support from both of their parents.” *Id.* In contrast, other courts, applying the same standard of review, have held that these laws discriminate against divorced or separated parents in violation of the Equal Protection Clause. *See Curtis v. Kline*, 542 Pa. 249, 259 (1995).

60. Amato & Sobolewski, *supra* note 41, at 904.

61. Seventy-five percent of divorced women remarry within ten years. *See* Matthew Bramlett & William Mosher, *Cohabitation, Marriage, Divorce, and Remarriage in the United States*, in VITAL AND HEALTH STATISTICS 22 (Ser. 23 No. 22, 2002).

significantly lower well-being than children with married low-discord parents.<sup>62</sup> This is not surprising. Although the emotional and financial support of a new partner may be comforting and bring happiness to a divorced parent, the children are likely to perceive the new stepparent as a disruption in their lives. In other words, just when children are adapting to the divorce and the new family structure, they are asked to adapt to a new family structure—a stepparent and often stepsiblings that come with them. Their lives become more complicated.<sup>63</sup> This might explain why children who are raised by their mothers along with a stepfather do not do as well as children who are raised by their mothers and fathers. Indeed, their behavior and performance in school is comparable to, or worse than, that of children raised by a single parent alone.<sup>64</sup>

Many adult children with divorced parents have experienced three or more transitions because, as noted, the majority of divorced individuals remarry. Unfortunately, many also divorce again.<sup>65</sup> Each additional family transition places children's well-being at risk.

### *B. Long-Term Effects of Divorce on Parents*

Divorce also has negative effects on parents. As compared to single individuals, married persons have higher self-esteem, better physical health, and fewer symptoms of psychological distress.<sup>66</sup> They are also happier. Divorce eliminates all of the health benefits of marriage. Divorced persons

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62. Amato & Sobolewski, *supra* note 41, at 916.

63. I am reminded here of the thirteen-year-old girl I mentored who, when asked about her family, would start with the caveat, "It's complicated," before proceeding to explain that she has one full-blood sister, one half-brother on her mother's side, two half-sisters on her father's side, and one step-sister on her father's side (her stepmother's daughter from a previous relationship).

64. See Sara McLanahan, *Growing Up Without a Father*, in *LOST FATHERS: THE POLITICS OF FATHERLESSNESS IN AMERICA* 85, 90 (Cynthia R. Daniels ed., 1998) ("Children in stepfamilies do not do better than children whose mothers never remarry. Despite significantly higher family income and the presence of two parents, the average child in a stepparent family has about the same chance of dropping out of high school as the average child in a single-parent family."); Whitehead, *supra* note 57, 71 (noting that children growing up with stepparents are doing worse than children in single families, because "[o]ther difficulties seem to offset" the benefits of increased income and another adult).

65. See Bramlett & Mosher, *supra* note 61, at 27. The divorce rate for second marriages exceeds that of first marriages. *Id.* The study found that 33% of first marriages end within ten years as compared to 39% of second marriages. *Id.*

66. Amato & Sobolewski, *supra* note 41, at 904; see also Tara Parker-Pope, *Divorce, It Seems, Can Make You Ill*, N.Y. TIMES, Aug. 3, 2009 (noting that the health benefits of marriage are the result of a number of factors: married people tend to be better off financially than single people, they have access to their spouse's employer health benefits, married men tend to eat better and lead a healthier lifestyle, and wives tend to manage their husbands' health care, scheduling doctor's appointments for them).

experience poorer physical and mental health than people who never married. These effects continue even after remarriage.<sup>67</sup>

As noted above, children whose parents stayed married tend to share stronger bonds with their parents than children whose parents divorced. Although researchers have been concerned with the negative effects that weak parent-child ties have on adult children of divorced parents, weak parent-child ties also have negative effects on the parents. Parents who do not share strong emotional bonds with their children are unlikely to be able to depend on them in their old age or when they become ill.<sup>68</sup> They also experience emotional distress when they do not share close relationships with their children.<sup>69</sup>

### *C. Long-Term Effects of Marital Discord on Children*

After learning about the long-term negative effects of divorce on their children and themselves, many parents in unhappy marriages might be tempted to stay together for their own sake and the sake of their children. This would be a mistake in some cases. When the level of discord in a marriage is high, children are likely to experience the short-term and long-term negative effects of divorce even if their parents stay together. Exposure to high levels of marital conflict places children at increased risk for

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67. Linda Waite & Mary Elisabeth Hughes, *Marital Biography and Health Midlife*, 50 J. HEALTH & SOC. BEHAVIOR 348 (2009) (finding that divorced individuals have 20% more chronic health conditions such as heart disease, diabetes, and cancer than married persons, and those who remarry have 12% more chronic conditions than those that remained married to the same person); see also Madison Park, *Divorce Takes Health Toll that Remarriage Can't Heal* (July 28, 2009), <http://www.cnn.com/2009/HEALTH/07/28/divorce.marriage.health/> (citing 2006 study finding that divorced women are 60% more likely to have cardiovascular disease than women who remain married.).

68. See *supra* note 49 and accompanying text (noting that, as compared to adults whose parents remained married, adult children of divorced parents exchange less assistance with parents, and describe their relationships with their parents in less positive terms).

69. See generally Edward Kruk, *The Disengaged Noncustodial Father: Implications for Social Work Practice with the Divorced Family*, 39 SOC. WORK 15, 20–21 (1994) (finding that fathers who were highly involved with their children during the marriage deal with the pain of losing the daily interaction with their children and their daily parental responsibilities by completely disengaging over time). Scholars have recently begun exploring the effect on fathers of losing their relationship with their children. *Id.* See also Solangel Maldonado, *Beyond Economic Fatherhood: Encouraging Divorced Fathers to Parent*, 153 U. PA. L. REV. 921, 978–79 (2005) (arguing that divorced fathers “deal with the pain of trying to maintain a close relationship with [their children] after divorce by limiting or curtailing contact” with them).

depression, anxiety, anti-social behavior, and poor academic performance.<sup>70</sup> It also places children at risk of inadequate parenting.<sup>71</sup>

The long-term effects of high levels of parental conflict are similar to the long-term effects of divorce. Adults who were exposed to high levels of marital conflict as children tend to report a greater number of psychological problems than the general population.<sup>72</sup> They are also more likely to report instability and conflict in their own marriage and to have weak relationships with their parents.<sup>73</sup> In short, because high levels of marital conflict are so harmful to children psychologically, these children experience no decrease in well-being when their parents divorce.<sup>74</sup> Indeed, their well-being seems to improve somewhat once their parents divorce, possibly because they are removed from a harmful environment.<sup>75</sup>

The long-term effects of serious marital discord are also harmful to parents. Although, as noted, married persons are healthier on average than divorced individuals, chronic marital conflict eliminates the health benefits of marriage. Persons in high conflict marriages are more likely than divorced persons to suffer serious illnesses such as cancer, heart disease, and chronic pain.<sup>76</sup>

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70. Amato & Sobolewski, *supra* note 41, at 903; *see also* Frank Fincham & Steven Beach, *Marital Conflict: Implications for Working with Couples*, 50 ANN. REV. PSYCHOL. 47, 49 (1999) (noting that prolonged marital conflict is “associated with poorer parenting, poorer child adjustment, problematic attachment to parents, and an increased likelihood of parent-child conflict”).

71. *See* Amato & Sobolewski, *supra* note 41, at 903–05 (“[p]arents who fight frequently, compared with less combative parents, tend to display less warmth toward their children and discipline them more harshly.”).

72. Amato & Sobolewski, *supra* note 41, at 901 (finding that “[p]arental discord was positively associated with adult offspring’s psychological distress 12 years later.”).

73. *Id.* at 903–04.

74. I am not suggesting that children do not experience any negative effects when their parents divorce. In most cases, children are worse off financially when their parents divorce because, even when parents pay child support (which they often do not), there is usually not enough money to support two households as generously as when the marriage was intact. My focus, however, is on the effects of divorce on children’s psychological well-being. The harm to children’s well-being may be so great when parents are in a high-conflict marriage, which often involve violence, that it outweighs the economic benefits of growing up with two married parents. One study found domestic violence in 57% of high-discord marriages. Amato, *supra* note 1, at 86–88.

75. *See* Amato & Sobolewski, *supra* note 41, at 903–04 (finding that the “estimated effects of divorce are minimal—even positive—when marital dissolution is preceded by an especially high level of chronic and overt marital conflict, including violence. In these cases, divorce appears to benefit children by removing them from a dysfunctional home environment.”); Amato, *Good Enough*, *supra* note 1, at 81–82 (“When parents reported a low level of marital discord prior to divorce, offspring had a level of well-being that was below average. In contrast, when parents reported a high level of discord prior to divorce, offspring had a level of well-being that was slightly above average.”).

76. Fincham & Beach, *supra* note 70, at 49. The negative health consequences of prolonged marital conflict are more pronounced for women than men. *Id.*

In short, the data suggest that approximately half of all children experience long-term negative effects as a result of their parents’ divorce and many actually benefit from the divorce.<sup>77</sup> Accordingly, the challenge for lawmakers and parents is to determine which marriages are worth saving or as Amato put it: which marriages are “‘good enough’ from a child’s perspective”?<sup>78</sup>

### III. FINDING GOOD ENOUGH MARRIAGES

Before we can explore whether and how lawmakers can encourage low-discord couples to reconcile, it is important to determine what is a low-discord or a high-discord marriage. Paul Amato and his colleagues have come up with a measure of marital discord that measures marital conflict, marital problems, and marital instability or proneness to divorce.<sup>79</sup> Amato proposed that parents seeking a divorce be required to answer questions about their marriage such as their level of marital happiness in the last two years, the strength of their feelings for their spouse in that time period, the frequency of serious quarrels, how frequently they enjoyed recreational activities with their spouse, and whether there was any violence in the relationship.<sup>80</sup> Their answers to these questions indicate whether they have a low-discord, medium-discord, or high-discord marriage. Amato suggested that court personnel use these responses to make predictions about the probable effects of divorce on their children and reveal this information to the parents. Although he acknowledged that predicting the likely effects of

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77. See Amato, *supra* note 1, at 93.

78. *Id.* at 74.

79. *Id.* at 77–78. Amato described the measure as follows:

Our measure of marital discord was based on three scales. The first was a four-item measure of marital conflict. Items focused on arguments over the household division of labor, arguments over the children, the frequency of disagreement in general, the number of serious quarrels in the past two months, and whether violence (initiated by either partner) had occurred in the marriage. The second measure was a thirteen-item index of marital problems. Questions addressed the existence of various problems in the relationship, including whether one or both partners had difficulties with jealousy, controlling anger, not talking to the other, being domineering, spending money foolishly, and infidelity. The sum of the number of problems served as the scale score. The final scale was a twelve-item measure of instability or divorce proneness. Items dealt with divorce-related thoughts, such as thinking about divorce, as well as behaviors, such as discussing divorce with the spouse.

*Id.*

80. *Id.*

divorce on a particular child would be difficult,<sup>81</sup> he anticipated that parents would want to know whether, based on the quality of their marriage, their children were at higher or lower risk of poor outcomes.<sup>82</sup> He proposed that court personnel encourage parents in low-discord marriages to attend education and counseling programs to help them “explore the possibility of keeping the marriage together.”<sup>83</sup>

I agree with Amato that parents would want to know whether their children are at long-term risk for poor outcomes. However, parents might not answer the marital quality questions truthfully when posed by court personnel or anyone associated with the legal system. They might fear that their answers will be used to deny or delay their divorce or that they will be perceived as inadequate parents if they decide to divorce even after learning of the potential long-term negative effects on their children. Court personnel are likely to believe that good parents stay in good enough marriages and might pressure—implicitly or explicitly—low-discord parents to stay married for the sake of the children. Parents might also feel compelled to participate in a marriage education program even if they have no intention of attempting to reconcile, if only to signal that they are good parents.<sup>84</sup>

For these reasons, I would not require that parents provide court personnel with any information about the quality of their marriage for the purpose of finding low-discord couples to target for marital education and counseling. Instead, the court or a divorce attorney could provide parents with a marital discord questionnaire to complete privately. So long as parents receive a score key explaining what the different score ranges predict, they would be able to decide whether attempts to reconcile with their spouse might be worthwhile. For example, the questionnaire could inform parents who score in the low-discord range that they might want to take advantage of a free marital education program and provide the contact information for the program. The court would not know who has a low-discord marriage or who participated in the marital education program. This would minimize any external pressure to reconcile.

Low-discord couples might experience internal pressure to reconcile as well. Many parents already know that divorce is likely to be difficult for their children. Many also experience guilt and may have delayed the divorce precisely to protect their children. These parents will likely experience

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81. For example, a divorce can have very different effects on siblings living in the same household.

82. Amato, *supra* note 1, at 91.

83. *Id.*

84. See Maldonado, *supra* note 68, at 1004–06 (arguing that “[a]ll parents want to be perceived and want to perceive themselves as good parents” and “experience guilt if they believe they have failed to be good parents.”).

greater guilt if their scores on the marital quality questionnaire suggest that their children have a greater than average risk of poor outcomes if their parents divorce. They might feel compelled to participate in a marital education program and try to persuade their spouse to explore the possibility of reconciliation. For them, administering the questionnaire privately and not having to disclose the results to anyone is unlikely to assuage feelings that they are bad parents if they do not try to save their marriage because they have internalized the message that good parents stay in good enough marriages.

Some readers will argue that by providing information on the potential long-term effects of divorce on the children of low-discord couples, and encouraging these couples to participate in programs whose goal is to foster reconciliation, the state may stigmatize divorced parents and their children. I share these concerns and would not want parents to feel pressured into reconciling.<sup>85</sup> However, in light of the evidence that children of low-discord couples are likely to experience a decrease in well-being long-term, society has an interest in facilitating reconciliation in cases where parents are at least open to the possibility. Further, reconciliation might benefit parents as well as their children. As shown, divorce has negative long-term effects on the divorcing individuals, even if they remarry.<sup>86</sup>

Some readers will object to yet another hurdle that parents seeking to divorce must maneuver. Many states offer, and others require, divorcing parents to participate in parenting education or divorce education programs.<sup>87</sup> Many states also require divorcing parents to participate in mediation.<sup>88</sup> Marital education and counseling programs, however, are quite distinct from mediation and parenting education programs. Both mediation and parenting education presuppose that the marriage is over. Consequently,

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85. I am especially concerned about the psychological harm to mothers whom society always expects to sacrifice for their children.

86. See *supra* note 67 and accompanying text.

87. See, e.g., VA. CODE ANN. § 20-103 (West 2012) (requiring divorcing parents to participate in four hour seminar addressing “the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities.”). As of 2001, nearly half of all counties in the U.S. offered parenting education programs. See Robyn J. Geelhoed et al., *Status of Court-Connected Programs for Children Whose Parents are Separating or Divorcing*, 39 FAM. CT. REV. 393, 393 (2001).

88. John Lande & Gregg Herman, *Fitting the Forum to the Family Fuss: Choosing Mediation, Collaborative Law, or Cooperative Law for Negotiating Divorce Cases*, 42 FAM. CT. REV. 280, 280 (2004).

their goal is to resolve custody and visitation disputes,<sup>89</sup> educate parents about the importance of co-parenting after divorce, prepare parents for the challenges their children will face adjusting to the divorce, and help parents manage conflict after divorce.<sup>90</sup> They do not purport to foster reconciliation or inform parents about the long-term effects of divorce on their children. In contrast, the goal of marital education and counseling programs discussed below is to facilitate reconciliation by teaching couples skills that can enrich their marriage, foster intimacy, and facilitate forgiveness.

#### IV. FORGIVENESS AND RECONCILIATION IN LOW-DISCORD MARRIAGES

*“A happy marriage is the union of two good forgivers.”<sup>91</sup>*

In his article, Amato recommended that the state refer low-discord couples seeking a divorce to “special education and counseling sessions to explore the possibility of keeping the marriage together.”<sup>92</sup> He did not, however, provide any guidance on the types of services the state should recommend or provide. This Part examines the literature on forgiveness and

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89. See, e.g., MONT. CODE ANN. 40-4-302(1) (1998) (“The purpose of a mediation proceeding is to reduce acrimony that may exist between the parties and to develop an agreement that is supportive of the best interests of a child involved in the proceeding.”).

90. Divorce education programs seek to teach parents how their negative attitudes and behaviors toward each other affect their children. Margie J. Geasler & Karen R. Blaisure, 1998 *Nationwide Survey of Court-Connected Divorce Education Programs*, 37 FAM. & CONCILIATION CTS. REV. 36, 36 (1999). These programs generally:

- (1) inform parents how children typically respond to separation and adjust after divorce;
- (2) alert parents to the negative impact of continued high conflict and other harmful behaviors on their children’s adjustment;
- (3) discuss benefits of and skills for developing a civilized parenting relationship;
- (4) focus parents on children’s need for a continuing relationship with both parents, as separate from their own feelings and attitudes toward each other;
- (5) describe positive parenting behaviors and discipline practices;
- (6) discuss adult adjustment to divorce and skills for coping with change;
- (7) focus on responsibilities of residential and contact parents; and
- (8) describe court processes, such as mediation.

*Id.*; Joan B. Kelly, *Psychological and Legal Interventions for Parents and Children in Custody and Access Disputes: Current Research and Practice*, 10 VA. J. SOC. POL’Y & L. 129, 134 (2002); see, e.g., N.J.S.A. 2A:34-12.3 (1999) (mandatory parenting education program seeks “to promote cooperation between the parties and to assist parents in resolving issues which may arise during the divorce or separation process”); COLO. REV. STAT. ANN. 14-10-123.7 (West 2012) (“the intent of these programs is to educate parents about the divorce process and its impact on adults and children and to teach co-parenting skills and strategies so that parents may continue to parent their children in a cooperative manner”).

91. ROBERT QUILLEN, *THE VOICE OF SMALL-TOWN AMERICA: THE SELECTED WRITINGS OF ROBERT QUILLEN 1920–1948* 255 (John Hammond Moore ed., 2008).

92. Amato, *supra* note 1, at 91.

concludes that programs that include a forgiveness component may foster reconciliation between low-discord parents.

Studies have found that marital satisfaction declines over time even when there is little marital conflict.<sup>93</sup> One reason is children. Parents have less time and energy to devote to the relationship once children come along and as a result, lose some of the intimacy they once shared.<sup>94</sup> Another reason is anger. Married women are angry. They are angry because they end up doing a disproportionate share of the childcare, housework, and relationship work.<sup>95</sup> Husbands are also angry.<sup>96</sup> They are angry that their wives focus all of their attention on the children and have very little time for them. They are angry when their wives do not laugh at their jokes or trust them to make any household decisions. Spouses are angry because they do not feel appreciated. This resentment between spouses negatively impacts intimacy, the desire for closeness, and empathy. In order to let go of the anger and foster intimacy, spouses need to forgive each other’s daily transgressions.<sup>97</sup>

There are several definitions of forgiveness. Robert Enright defines forgiveness as the “willingness to abandon one’s right to resentment, negative judgment, and indifferent behavior toward one who unjustly injured us while fostering the undeserved qualities of compassion, generosity and even love toward him or her.”<sup>98</sup> Other scholars have defined forgiveness as “motivation to reduce avoidance of and retaliation (or revenge) against a

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93. Glenice Burchard et al., *A Study of Two Marital Enrichment Programs and Couples’ Quality of Life*, 31 J. PSYCHOL. & THEOLOGY 240, 240 (2003) (“there is a natural decrease in marital quality that occurs over time.”).

94. See Tara Parker-Pope, *Your Nest is Empty? Enjoy Each Other*, N.Y. TIMES (Jan. 20, 2009), available at [http://www.nytimes.com/2009/01/20/health/20well.html?\\_r=0](http://www.nytimes.com/2009/01/20/health/20well.html?_r=0).

95. Benjamin Sklar, *Gender Roles, Marriage and Anger*, N.Y. TIMES (June 10, 2008), available at <http://well.blogs.nytimes.com/2008/06/10/gender-roles-marriage-and-anger/> (“Married women live with a lot of anger about having to do the tasks not only in the house but in the relationship.”).

96. See Steven Stosny, *Anger in Marriage: Failure of Compassion and the Rise of Contempt*, ANGER IN THE AGE OF ENTITLEMENT, (Nov. 4, 2009), <http://www.psychologytoday.com/blog/anger-in-the-age-entitlement/200911/anger-in-marriage-failure-compassion-and-the-rise-contempt>.

97. See Frank Fincham et al., *Forgiveness in Marriage: Current Status and Future Directions*, 55 FAM. RELATIONS 415, 415 (2006) (“Forgiveness is a critical part of the healing process for . . . dealing with everyday relationship hurts.”).

98. Robert D. Enright et al., *The Psychology of Interpersonal Forgiveness*, in *Exploring Forgiveness* 46, 47 (Robert D. Enright & Joanna North eds., 1998); see also JEFFRIE MURPHY & JEAN HAMPTON, *FORGIVENESS AND MERCY* 15 (1988) (“Forgiveness . . . is the foreswearing of resentment—the resolute overcoming of the anger and hatred that are naturally directed toward a person who has done one an unjustified and non-excused moral injury.”).

person who has harmed or offended one and to increase conciliation between the parties if conciliation is safe, prudent, and possible.”<sup>99</sup> Forgiveness does not mean condoning, excusing, or forgetting the offensive behavior.<sup>100</sup> It is not the same as reconciliation, which requires the restoration of “trust in a relationship in which trust has been damaged.”<sup>101</sup> Forgiveness is an internal process, which means that one can forgive without the involvement of the other person.<sup>102</sup> One can also forgive without reconciling with the injurer. In contrast, reconciliation is an external interpersonal process which generally requires the involvement of both the injurer and the injured party.<sup>103</sup> Forgiveness enables reconciliation in those cases where it is desirable.<sup>104</sup>

Although some people are naturally predisposed to forgiving, many researchers believe that most individuals must be taught to forgive.<sup>105</sup> Some of these researchers have developed several models to facilitate forgiveness.<sup>106</sup> Enright and his colleagues developed the first tested forgiveness model, the Process Model, which consists of four phases.<sup>107</sup> In the first phase, the injured person acknowledges the pain that another person has caused him and reacts with anger and possibly shame or guilt.<sup>108</sup> In the second phase, the injured party comes to the realization that focusing on the transgression is not helping his pain.<sup>109</sup> At that point, he may decide to forgive his offender and give up the idea of revenge.<sup>110</sup> However, the decision (cognitive) to forgive is not the same as actually forgiving, which

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99. Everett L. Worthington, Jr. et al., *Group Interventions to Promote Forgiveness: What Researchers and Clinicians Ought to Know*, in FORGIVENESS: THEORY, RESEARCH, AND PRACTICE 228, 229.

100. Enright, *supra* note 98, at 47–48; MURPHY & HAMPTON, *supra* note 98, at 15.

101. EVERETT WORTHINGTON, FIVE STEPS TO FORGIVENESS: THE ART AND SCIENCE OF FORGIVING 157 (2001).

102. *See* Worthington, *supra* note 99, at 229.

103. *Id.*

104. Julie Exline & Roy Baumeister, *Expressing Forgiveness and Repentance: Benefits and Barriers*, in FORGIVENESS: THEORY, RESEARCH, AND PRACTICE 133, 136 (McCullough et al. eds. 2000) (“Expressions of both repentance and forgiveness might foster reconciliation, but they cannot be equated with it.”). Reconciliation may not be desirable or recommended in some cases, for example, where there has been domestic violence, or other types of serious abuse. *Id.*

105. Enright, *supra* note 98, at 52.

106. *Id.* at 47; Michael E. McCullough & Everett L. Worthington, Jr., *Promoting Forgiveness: A Comparison of Two Brief Psychoeducational Group Interventions with a Waiting-List Control*, 40 COUNSELING & VALUES 55, 55 (1995).

107. Enright, *supra* note 98, at 52–55

108. *Id.* at 52.

109. *Id.* at 53.

110. *Id.* at 53–54.

requires positive feelings and may take time.<sup>111</sup> In phases three and four, the hurt party attempts to understand why the offender did what he did.<sup>112</sup> This requires that the injured party examine the offender’s background, experiences, and pressures in order to understand his actions.<sup>113</sup> This process may trigger feelings of empathy and compassion for the offender and lead the injured person to actually feel like forgiving.<sup>114</sup>

Everett Worthington and colleagues have developed the Pyramid Model of forgiveness, which theorizes that forgiveness requires empathy, humility, and a commitment to forgiving.<sup>115</sup> Worthington has developed a five-step forgiveness intervention based on this Pyramid Model, which has been applied in marriage counseling and is described by the acronym REACH (Recall, Empathy, Altruistic, Commit, and Hold).<sup>116</sup> It requires that the injured spouse Recall the hurt, describe the hurtful event from the other spouse’s perspective, and recall instances where she (the injured party in this case) has needed forgiveness herself.<sup>117</sup> The goal is to foster Empathy, which will enable the offended party to give the Altruistic gift of forgiveness.<sup>118</sup> The injured party then Commits to forgiving and agrees to find ways to Hold on to forgiveness even when she recalls the transgression.<sup>119</sup>

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111. Robert Enright & Bruce A. Kittle, *Forgiveness in Psychology and Law: The Meeting of Moral Development and Restorative Justice*, 27 *FORDHAM URBAN L.J.* 1621, 1626 (2000); see also Nathaniel Wade et al., *But Do They Work? A Meta-Analysis of Group Interventions to Promote Forgiveness*, in *THE HANDBOOK OF FORGIVENESS* 423, 423-24 (Everett L. Worthington, Jr. ed. 2005) (explaining the difference between decisional forgiveness—a decision to forswear revenge—and emotional forgiveness—the replacement of negative emotions with positive emotions); Fincham, *supra* note 96, at 417 (noting that forgiveness is not a specific act but an “intentional process . . . driven by a deliberate decision to forgive.”).

112. Enright, *supra* note 98, at 53–54.

113. *Id.* at 54.

114. *Id.* at 54.

115. Everett L. Worthington, Jr., *An Empathy-Humility-Commitment Model of Forgiveness Applied Within Family Dyads*, 20 *J. FAM. THERAPY* 59 (1998).

116. See Everett Worthington, Jr., *The Pyramid Model of Forgiveness: Some Interdisciplinary Speculations About Unforgiveness and the Promotion of Forgiveness*, in *DIMENSIONS OF FORGIVENESS* 107; Everett L. Worthington, Jr. & Dewitt T. Drinkard, *Promoting Reconciliation Through Psychoeducational and Therapeutic Interventions*, 26 *J. MARITAL AND FAM. THERAPY* 93 (2000).

117. *Id.*

118. See Worthington, *supra* note 115, at 60.

119. Kristina Coop Gordon et al., *Forgiveness in Couples: Divorce, Infidelity, and Couples Therapy*, in *HANDBOOK OF FORGIVENESS* 414 (Everett Worthington, Jr. ed., 2005).

Several studies have used these two models<sup>120</sup> to help participants forgive offenses such as neglect,<sup>121</sup> parental-love deprivation,<sup>122</sup> infidelity or termination of a romantic relationship,<sup>123</sup> and incest.<sup>124</sup> For example, the first forgiveness intervention used the Process Model to help elderly women forgive a spouse or adult child who had hurt, neglected, or betrayed them.<sup>125</sup> After eight weekly, sixty-minute group sessions, the participants had fewer negative feelings towards the person who hurt them than did those in the control group and were more willing to forgive.

Another study used a variation of the REACH model to help participants to forgive a former spouse's marital infidelity.<sup>126</sup> Researchers randomly assigned 149 divorced individuals to a secular forgiveness group, a religiously integrated forgiveness group, or a control group.<sup>127</sup> The group sessions discussed feelings of betrayal, coping with anger toward the former spouse, forgiveness education, preventing relapse (holding on to forgiveness), and closure.<sup>128</sup> The participants in the secular and religiously integrated forgiveness groups reported similarly higher levels of forgiveness than the control group.<sup>129</sup> These studies and interventions suggest that forgiveness can be taught and facilitated in six to twelve group sessions.<sup>130</sup>

Researchers have begun to explore the potential of forgiveness and reconciliation in marital relationships.<sup>131</sup> Many married couples and

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120. Although there are other models of forgiveness, I focus on the Process and Pyramid models because these have been tested empirically.

121. John H. Hebl & Robert D. Enright, *Forgiveness as a Therapeutic Goal with Elderly Females*, 4 PSYCHOTHERAPY 658, 660 (1993).

122. Radhi H. Al-Mabuk et al., *Forgiveness Education with Parentally Deprived Adolescents*, 24 J. MORAL EDUC. 427 (1995).

123. Michael E. McCullough & Everett L. Worthington, Jr., *Promoting Forgiveness: A Comparison of Two Brief Psychoeducational Group Interventions with a Waiting-List Control*, 40 COUNSELING & VALUES 55, 55 (1995).

124. Suzanne R. Freedman & Robert D. Enright, *Forgiveness as an Intervention Goal With Incest Survivors*, 64 J. CONSULTING & CLINICAL PSYCHOL. 983 (1996); see Thomas W. Baskin & Robert D. Enright, *Intervention Studies on Forgiveness: A Meta-Analysis*, 82 J. COUNSELING & DEV. 79 (2004).

125. Hebl & Enright, *supra* note 121, at 664–66.

126. Gordon, *supra* note 119, at 416.

127. *Id.* This group was the same as the secular group, but participants were encouraged to rely on their religious or spiritual beliefs as they worked to forgive.

128. *Id.*

129. *Id.*

130. See Worthington, Jr., *supra* note 98, at 232 tbl.11.1, 236 (showing that most group sessions are generally nine hours or less).

131. See Kristina Coop Gordon et al., *An Integrative Intervention for Promoting Recovery from Extramarital Affairs*, 30 J. MARITAL & FAM. THERAPY 213 (2004); Mark Rye & Kenneth Pargament, *Forgiveness and Romantic Relationships in College: Can it Heal the Wounded Heart?*, 58 J.

professionals believe that forgiveness is the key to marital bliss.<sup>132</sup> One might ask whether forgiveness education could benefit individuals in low-discord marriages? These marriages seem to have lost their spark, but they rarely involve abuse or infidelity, so what is there to forgive?<sup>133</sup> Arguably, forgiveness interventions seem more properly suited to situations where one spouse has committed a major transgression—adultery for example—rather than marriages where spouses cite general unhappiness or dislike of their spouse’s personality as a reason for seeking a divorce.

While forgiveness may be critical for couples dealing with major transgressions such as infidelity or financial dishonesty, it may also help couples deal with “everyday relationship hurts”<sup>134</sup>—for example, when a spouse is late and forgets to call, chooses to spend Sunday playing golf with friends rather than with her spouse, forgets to load the dishwasher or plow the driveway, or fails to ask his wife about her first day in a new job. These are the daily transgressions that can slowly destroy marital intimacy.<sup>135</sup> Researchers have found a positive correlation between forgiveness and marital satisfaction and intimacy.<sup>136</sup> These studies also suggest that forgiveness can increase marital commitment.<sup>137</sup> It appears that in order to increase marital satisfaction, intimacy, and commitment, spouses need to be

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CLINICAL PSYCHOL. 419 (2002); James Sells et al., *A Pilot Study in Marital-Group Therapy*, 10 THE FAMILY JOURNAL: COUNSELING & THERAPY FOR COUPLES & FAMILIES 156 (2002).

132. Fincham, *supra* note 97, at 417 (noting that “it is widely believed that forgiveness can help couples to deal with existing difficulties and prevent the emergence of future problems.”); Frank Fincham et al., *Forgiveness and Conflict Resolution in Marriage*, 18 J FAM. PSYCHOL. 72, 72 (2004) (“Spouses report that the capacity to seek and grant forgiveness is one of the most important factors contributing to marital longevity and marital satisfaction.”).

133. *See supra* notes 18–19 and accompanying text.

134. Fincham, *supra* note 97, at 415.

135. Fincham, *supra* note 132, at 72 (noting that most spouses “at some point, feel hurt, let down, betrayed, disappointed or wronged” by the other spouse. These transgressions “can elicit strong negative feelings and have the potential to disrupt the relationship.”).

136. Fincham, *supra* note 97, at 418 (“There is emerging evidence that . . . [the trait of] forgiveness predicts later marital satisfaction”). Couples who report high levels of marital satisfaction are more likely to forgive their spouses’ daily transgressions. *Id.*; *see also* Lee Ann Vaughn, *The Relationship Between Marital Satisfaction Levels Association With Participation in the FREE (Forgiveness and Reconciliation Through Experiencing Empathy) and Hope-Focused Marital Enrichment Program*, 62 DISSERTATION ABSTRACTS INT’L 1124, 1147 (2001) (conducting study on marital satisfaction and concluding that trait-forgiveness, defined as “the disposition to forgive interpersonal transgressions over time and across situations,” is a predictive factor associated with marital satisfaction); *id.* (“Intimacy levels remain high when hurts are dealt with quickly and individuals with the disposition to forgive are likely to quickly seek and grant forgiveness when an offense has occurred.”).

137. Fincham, *supra* note 97, at 419.

willing to forgive their spouse's daily transgressions and seek forgiveness for their own.<sup>138</sup>

Individuals who are naturally predisposed to forgiving report higher levels of marital satisfaction and intimacy than non-forgivers.<sup>139</sup> The question is whether forgiveness can be facilitated when a person's level of trait-forgiveness—the natural disposition to forgive—is low. A few studies have tested whether forgiveness-based programs can increase forgiveness of a spouse and also increase marital satisfaction and intimacy. For example, one study found that married couples who participated in a four-hour forgiveness intervention showed more forgiveness and expressed greater marital intimacy than the control group.<sup>140</sup> This intervention differed somewhat from the Process or Pyramid models because it was directed primarily at the injurer rather than the injured party.<sup>141</sup> Most forgiveness interventions focus on teaching the injured party how to forgive regardless of whether the injurer seeks forgiveness. In contrast, this intervention placed responsibility on the injurer to seek forgiveness and asked the injurer to feel the hurt that the other person had experienced.<sup>142</sup>

Another study found that couples who participated in an eight-week marital group intervention focusing on empathic listening, conflict resolution, and forgiveness increased their forgiveness skills and marital satisfaction, and decreased their level of anger.<sup>143</sup> The study found a positive correlation between forgiveness and marital satisfaction.<sup>144</sup> While participants lost most of the gains by the three-month follow-up, they retained some of the forgiveness skills they learned.<sup>145</sup> The researchers concluded that in order to have a lasting effect, group interventions should include regular follow-up and environmental reinforcements until the skills acquired in the interventions became naturally reinforcing.<sup>146</sup>

Another study examined two, nine-hour marital enrichment programs, a Hope-Focused program and a Forgiveness and Reconciliation Through

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138. *Cf. id.* at 418 (stating that forgiveness predicts how a person will react to a spouse's transgressions."). There is also some evidence that forgiveness in married couples leads to better conflict resolution. Fincham, *supra* note 132, at 72.

139. *See id.*

140. Jay A. Alvaro, *An Interpersonal Forgiveness and Reconciliation Intervention: The Effect on Marital Intimacy* (2001), DISSERTATION ABSTRACTS INT'L. 62(1608), 3-B, at 120.

141. *Id.*

142. *Id.* at 125.

143. Sells, *supra* note 131, at 160–61 (finding "significant improvement in the expressed capacity to forgive, anger states, expression of anger traits, marital adjustment, and the reduction of many psychological symptoms").

144. *Id.* at 163.

145. *Id.* at 163.

146. *Id.* at 164.

Experiencing Empathy (FREE).<sup>147</sup> The Hope-Focused program “focused on instilling hope in the marriage,” communication skills, and ways to increase positive behavior and increase intimacy.<sup>148</sup> The FREE program explained the concept of forgiveness and its benefits and used examples to help the couples practice forgiving.<sup>149</sup> The study showed a similar increase in quality of life of the participants in both groups as compared to the control group and a positive correlation between quality of life and disposition to forgive.<sup>150</sup> However, a similar study comparing a Hope-Focused program with a forgiveness component<sup>151</sup> with the FREE program found that couples participating in the Hope-Focused program with a forgiveness component reported greater marital satisfaction than participants in the FREE program.<sup>152</sup>

These studies suggest that programs that include forgiveness education as part of their curriculum may help couples achieve greater marital intimacy and satisfaction. While studies suggest that Hope-Focused programs with a forgiveness component may be just as or more effective than programs focusing primarily on forgiveness,<sup>153</sup> the importance of the forgiveness component should not be minimized. Researchers have noted that the focus of most marital enrichment programs on communication skills, conflict resolution, and promotion of intimacy may lead some couples to believe that participating in such a program “will inoculate them against hurts and offenses.”<sup>154</sup> When they experience conflict in the marriage or their spouses hurt them, they lose confidence in the intervention and rate their marriage more negatively than before participating in the intervention.<sup>155</sup> One would expect couples that participate in programs with a forgiveness component to be better prepared to forgive the inevitable transgressions that are part of any

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147. Burchard, *supra* note 93, at 240.

148. *Id.* at 245, 249.

149. *Id.*

150. *Id.* at 248–49.

151. Hope-Focused program participants were taught to create a vision statement for the marriage, to conduct a forgiveness session, to use forgiveness to complete conflict resolution, and to listen and repeat as a means to deal with miscommunication. They also learned love-related theories and ways to build love. See Vaughn, *supra* note 135, at 30–31.

152. *Id.* (finding that participants exposed to both hope and forgiveness reported greater marital satisfaction than those exposed only to forgiveness).

153. *Id.* at 33.

154. Jennifer Ripley & Everett Worthington, Jr., *Hope-Focused and Forgiveness-Based Group Interventions to Promote Marital Enrichment*, 80 J. OF COUNSELING & DEVELOPMENT 452, 453 (2002).

155. *Id.*

intimate relationship. It is noteworthy that PREP (Prevention and Relationship Enhancement Program),<sup>156</sup> one of the most popular marital enrichment programs and the program that the Oklahoma Marriage Initiative has chosen to help it reduce its divorce rate, has a forgiveness component.<sup>157</sup>

## V. CONCLUSION

Society continues to try to find ways to save marriages that might be worth saving. Almost twenty years after Amato published *Good Enough Marriages: Parental Discord, Divorce and Children's Well-Being*, commentators continue to ask which marriages are good enough.<sup>158</sup> The next step is to provide parents in “good enough” marriages with the resources to strengthen their relationships. The forgiveness literature is still in its nascent stage and forgiveness education will not help every marriage.. However, it may be one resource that lawmakers can offer parents seeking to provide stable homes for their children.

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156. PREP is a ten to twelve hour program that teaches communication skills, conflict management, and problem-solving. See M.J. Renick et al., *The Prevention and Relationship Enhancement Program (PREP): An Empirically Based Preventive Intervention Program for Couples*, 41 FAM. RELATIONS 41 (1992)

157. In 1999, Oklahoma established the Oklahoma Marriage Initiative (OMI), which seeks to reduce the state's divorce rate by one-third by 2010, and set aside \$10 million for OMI programs. The Oklahoma Marriage Initiative encourages married couples and those preparing to marry to participate in the state's voluntary and free marital enrichment program based on PREP. See OKLAHOMA MARRIAGE INITIATIVE, *OMI History*, <http://www.okmarriage.org/ProgramHighlights/MarriageProblems.asp>.

158. Ginger Tobias, *Is Your Marriage Good Enough?*, CNN.COM (Mar. 3, 2010) (stating that “55 to 60 percent of divorcing couples discard unions with real potential” because they “are bored with the relationship or feel it hasn't lived up to their expectations”) (quoting Paul Amato).