

Study researches effectiveness of mediation in custody disputes

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A joint project between the Notre Dame Law School's Legal Aid Clinic and the College of Arts and Letters' Center for Children and Families will examine the effectiveness of mediation in child custody disputes—specifically the success of educational programs required by the courts and whether the type of mediation makes a difference.

Margaret Brinig, the Law School's associate dean for faculty research, is one of the project's principal investigators.

According to Brinig, there has been relatively little follow-up research on whether mediation works in custody disputes. “We know how many cases go to court, but we don't have any good measures on people's satisfaction with how much they learned, or whether or not mediated agreements work better than litigated outcomes over the long run.”

Mediation is an attempt to solve disputes outside the normal court process. Researchers on the translational mediation project will create experimental mediation programs, gather information and incorporate the data into future clinical trials.

The project will test the success of education about healthy ways of resolving conflict and whether it makes a difference to have student lawyers serve as mediators versus a combination of lawyers and other professional students—like psychologists or social workers—who can help participants with some of their other problems or might simply add depth to the mediation process.

“We’re dealing with custody disputes that are referred to us by the courts here in St. Joseph County,” Brining says. “They’re either couples who are divorcing and can’t resolve custody themselves, or they’re paternity actions where the couple has never been married, perhaps never lived together.”

Parents will be randomly assigned to a control group or to a treatment group. The control group will complete the normal requirement: watching a film about the negative effects of parents fighting in front of their children and other issues in the post-separation parenting process. The treatment group will participate in a psycho-educational program about conflict management. Both groups will undergo mediation through the Legal Aid Clinic’s mediation program.

Michael Jenuwine, clinical professor of law and co-principal investigator, leads the mediators—law students sometimes teamed with social work or psychology graduate students. Participants will respond to surveys at various points in the study and their responses will inform future studies.

The study, which began Aug. 1, is unusual because lawyers rarely get involved in research that involves random assignment to controls, says Brinig.

The project is funded by a Strategic Academic Planning Committee research grant. Co-sponsors include the College of Arts and Letters and the Law School. The law students will receive credit through the applied mediation course.

Provided by University of Notre Dame

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