

## Research Article

# Emotional Suffering of Parents in Judicial Proceedings for Variation of Custody Arrangements

Pedro V. Mateo-Fernández<sup>1,2,4\*</sup> and Iria de la Osa-Subtil<sup>1,3,4</sup>

<sup>1</sup>Mental Health Research Group (MHeRG). Faculty of Medicine, Alfonso X el Sabio University, Madrid, Spain

<sup>2</sup>Department of Psychology. Faculty of Biomedical and Health Sciences, Universidad Europea de Madrid, Spain

<sup>3</sup>Department of Medicine. Faculty of Biomedical and Health Sciences, Universidad Europea de Madrid, Spain

<sup>4</sup>Department of Personality, Assessment and Clinical Psychology. Faculty of Psychology, Universidad Complutense de Madrid, Spain

## Abstract

The emotional distress of parents during court proceedings to change custody is crucial in forensic psychology. This article explores how psychological factors impact court proceedings and vice versa. Physical and legal custody adjustments can be highly stressful, affecting mental health and family dynamics. Studies indicate that these processes generate stress, depression and anxiety in parents, affecting their capacity for care and well-being. Legally, child custody is governed by laws that seek the best interests of the child, considering emotional and economic stability. Research reveals that conflict and lengthy court proceedings increase emotional distress. Psychological assessment is crucial for informed decisions, using interviews, questionnaires and observations. Ongoing psychological support and therapies such as cognitive-behavioral and family therapy are essential to manage emotional distress and improve the environment for children.

Addressing these challenges will improve both legal and psychological interventions, promoting the well-being of all parties involved

\*Corresponding author: Mateo-Fernández, Mental Health Research Group (MHeRG). Faculty of Medicine, Alfonso X el Sabio University, Department of Psychology. Faculty of Biomedical and Health Sciences, Universidad Europea de Madrid, Assessment and Clinical Psychology. Faculty of Psychology, Universidad Complutense de Madrid, Spain, Email: pedrovmf@cop.es

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and ultimately ensuring the end that all such proceedings pursue, which is none other than the well-being of the child.

**Keywords:** Assessment; Court proceedings; Custody modality; Emotional distress; Forensic psychologist, Intervention; psychological

## Introduction

The emotional distress of parents during court proceedings for variation of custody arrangements is a topic of great relevance in the field of forensic psychology. This area of study focuses on the intersection between psychology and the legal system, addressing how psychological factors influence court proceedings and vice versa. Forensic psychology professionals play a crucial role in assessing the emotional well-being of individuals involved in legal disputes, especially in custody cases, where the decisions made can have a profound and lasting impact on the lives of children and their families.

The custody variation process can be extremely stressful for parents, who often face a number of emotional and psychological challenges. According to Fariña et al. [1], “the consequences of couple separation can affect all significant areas of children’s and parents’ lives, especially when the management of the separation is contentious and destructive conflict remains embedded in the life of that family, regardless of whether joint or sole custody has been established.” These conflicts not only affect the mental health of the parents, but can also negatively influence family dynamics and the emotional development of the children.

### *The variation in custody arrangements and its impact on parents*

Variation of custody arrangements refers to changes in legal child custody arrangements, which may include adjustments in physical custody, legal custody, or both. These changes may be requested by either parent due to a variety of reasons, such as changes in living circumstances, concerns about the child’s welfare, or ongoing conflict between the parents. The final decision on custody variation is made by the court, which must consider the best interests of the child, evaluating factors such as the stability of the home, the parents’ ability to cooperate, and the child’s relationship with each parent [2,3].

The emotional impact of these proceedings on parents can be significant. Studies have shown that parents involved in custody disputes experience high levels of stress, depression and anxiety [4]. For example, research on depressive symptoms during the judicial custody process found that more than 50% of parents involved in this type of proceedings reported this symptomatology, in addition to other associated symptoms [5,6]. As we can see, this emotional distress can lead to a decrease in the parents’ ability to adequately care for their children, negatively affecting the overall well-being of the family.

In addition, the uncertainty and the very nature of judicial proceedings can exacerbate feelings of distress. According to Rincón

and Marrero [4], parents often perceive the judicial process itself as a threat to their parental role and their relationship with their children, which increases the emotional burden and psychological distress. This suffering not only impacts parents in the short term, but can have lasting effects on their mental health and relationship with their children.

Throughout this article how the variation in custody arrangements and the associated emotional distress of parents is an area for consideration within forensic psychology. Understanding and addressing these challenges can help improve legal and psychological interventions, thereby promoting the well-being of all parties involved.

## Legal and Psychological Context

### *Laws and regulations related to the custody of minors*

In the legal arena, child custody is governed by a number of laws and regulations designed to protect the welfare of children. These laws vary from country to country, but generally share fundamental principles that seek to ensure that custody decisions are based on the best interests of the child. In many countries, the regulations state that courts must consider a variety of factors when determining custody, including the emotional and economic stability of the parents, the ability of each parent to provide a safe and loving environment, and the existing relationship between the child and each parent.

For example, in Spain, Law 15/2005, which reforms the Civil Code and the Civil Procedure Law on separation and divorce, introduced shared custody as a viable, although not necessarily the preferred, option in cases of separation and divorce [3]. This law emphasizes that “the best interests of the minor must be the primary consideration” (Law 15/2005, Art. 92). Likewise, the United Nations Convention on the Rights of the Child states that in all decisions concerning children, “the best interests of the child shall be a primary consideration” (Article 3).

In the United States, custody laws vary by state, but many have adopted the “best interests of the child” standard as the primary criterion. In addition, some states have implemented laws that promote shared custody as a default option unless it is shown that such an arrangement would not be beneficial to the child [7].

### *Review of previous studies on the emotional impact on parents in judicial custody proceedings*

Numerous studies have investigated the emotional impact that custody proceedings have on parents. This research has shown that these proceedings can be extremely stressful and negatively affect the mental health of the parents involved.

Research by Pruett et al. [8] showed that parents involved in custody disputes report significantly higher levels of stress and anxiety compared to those not involved in such disputes. The study highlighted that “conflict in the custody process can lead to a deterioration in the mental health of parents, manifested in symptoms of depression and anxiety.”

Another study conducted by Sbarra and Emery [9] indicated that the custody litigation process can exacerbate feelings of anger and frustration among parents, which can have a negative impact on their ability to make decisions focused on the well-being of their children. According to the authors, “parents who experience high levels of conflict in the custody process are more likely to exhibit symptoms of post-traumatic stress disorder (PTSD).”

In addition, recent research has highlighted how the duration and intensity of court conflict can affect the mental health of parents. A study by Buchanan, Maccoby, and Dornbusch [10] found that “prolonged court proceedings are associated with an increased incidence of mental health problems among parents, including depression, anxiety, and chronic stress.” This finding suggests that not only the outcome of the process, but also the litigation experience itself, can be a significant source of emotional distress.

These studies underscore the importance of considering the emotional impact of custody court proceedings on parents and the need for psychological interventions that can mitigate this distress. The findings point to the need for more collaborative and less adversarial approaches to the resolution of custody disputes to reduce stress and promote the emotional well-being of all involved.

## Factors Contributing to Emotional Distress

The psychological and emotional factors contributing to parental distress during custody proceedings are complex and multifaceted. Anxiety, depression and stress are primarily the most common symptoms because of their significant impact on the mental health and well-being of parents, underscoring the need for effective interventions to mitigate these effects during and after the court process.

### *Analysis of the psychological and emotional factors that may influence parental distress*

The emotional distress of parents during custody proceedings is influenced by a variety of psychological and emotional factors. These factors include, but are not limited to, the type of relationship the parents had prior to the separation, the intensity of the current conflict, and the quality of interactions during the court proceedings.

One of the most influential factors is the presence of prior conflict between parents. Research indicates that parents who have experienced high levels of conflict prior to separation are more likely to experience emotional distress during custody proceedings [11]. This prior conflict may intensify feelings of anger, resentment, and hopelessness, contributing to emotional stress during the process.

Perceived unfairness and loss of control are also significant factors. According to Anderson and Saunders [12], “parents who feel that the court system is not fair or that they have no control over the outcome of the custody process may experience higher levels of stress and anxiety”. This perception can lead to feelings of helplessness and frustration, exacerbating emotional distress.

Attachment to the children and fear of losing contact with them is another critical factor. For many parents, the prospect of losing custody or having limited time with their children can be emotionally devastating. According to Fabricius and Luecken [13], “emotional attachment to children and the fear of losing the relationship with them are major sources of anxiety and stress during custody court proceedings.”

### *Exploration of anxiety, depression, stress and other common symptoms in these processes*

Custody proceedings often provoke a range of psychological symptoms in parents, among which anxiety, depression and stress are the most common. These symptoms can vary in intensity and duration, depending on the nature of the conflict and the parents’ ability to manage the stress.

Anxiety is a common symptom among parents involved in custody disputes. Uncertainty about the future and court decisions can generate high levels of anxiety. Melli and Brown's [14] study found that "70% of parents reported experiencing significant anxiety symptoms during custody proceedings." Constant concern about the welfare of the children and the outcome of the trial contributes to the persistence of anxiety.

Depression is another common symptom. Depression can arise from feelings of loss and hopelessness, especially in parents who face the prospect of losing valuable time with their children. According to studies on the subject, approximately 50% of parents in custody proceedings reported depressive symptoms, including persistent sadness, lack of interest in daily activities, and sleep problems [5,6].

Stress during these proceedings is almost universal. The emotional, financial, and temporal demands of litigation can overburden parents, leading them to experience chronic stress. Sbarra and Emery [9] noted that "stress arising from custody court proceedings not only affects the mental health of parents, but can also have physical consequences, such as hypertension and gastrointestinal disorders [15]."

In addition to anxiety, depression and stress, other common symptoms include anger and frustration. These feelings may arise due to the perceived unfairness of the judicial process and the conflict dynamics with the other parent [16]. Anger and frustration not only affect the mental health of parents, but can also negatively influence their behavior during the court process, often escalating the conflict and prolonging the emotional distress of all parties.

## Psychological Evaluation in Judicial Proceedings

One of the primary aspects of any assessment will be the tools and methods used by forensic psychologists which, in our case, are essential for assessing the emotional distress of parents in custody proceedings. These assessments provide an objective and detailed basis for judicial decision-making, ensuring that decisions are focused on the welfare of the children and the reduction of parental conflict.

### *Description of the tools and methods used by forensic psychologists to assess the emotional distress of parents*

Psychological assessment in the context of custody proceedings is a critical component of understanding the emotional and psychological state of parents. Forensic psychologists employ a variety of tools and methods to assess emotional distress, including clinical interviews, standardized questionnaires, and direct observations.

**Clinical interviews:** Clinical interviews are one of the most common and effective tools used by forensic psychologists. These interviews allow practitioners to gain a detailed understanding of the parents' personal and family history, their current emotional state, and the dynamics of their relationship with their children and the other parent. According to Ackerman and Ackerman [17], "clinical interviews provide a rich and detailed context for understanding the underlying factors contributing to the emotional distress of parents in custody proceedings."

**Standardized questionnaires:** Forensic psychologists also use a variety of standardized questionnaires and scales to assess specific symptoms of emotional distress, such as anxiety, depression and stress. In the clinical setting, tools such as the Beck Depression Inventory (BDI), the Hamilton Anxiety Scale (HAM-A), and the Holmes

and Rahe Stress Inventory are commonly used to quantify the level of emotional distress and provide data that can be presented in the judicial context. Although studies on the validity and reliability of these instruments have been documented in the psychological literature [18] for use in judicial proceedings, recent studies advise the use of validated tests for the forensic setting [19-22], such as Symptom Checklist-90-R (SCL-90-R) [20] or the Brief Symptom Checklist (LSB-50) [15].

**Direct observations:** Direct observations of interactions between parents and their children are also an essential tool in psychological assessment. These observations can be conducted in a controlled environment, such as a playroom, or in the home, and allow forensic psychologists to assess the quality of interactions, the presence of negative or positive behaviors, and the level of stress or anxiety that parents may experience during these interactions. According to Johnston et al. [6], direct observations are also important in these types of procedures as they provide a fairly complete picture of family dynamics that cannot be captured through questionnaires or interviews.

### *Importance of psychological assessment in judicial decision making*

Psychological evaluation in custody proceedings plays a crucial role in making informed and fair decisions. Psychological reports provide the judge and attorneys with a detailed understanding of the emotional and psychological state of the parents, which is essential in determining the best interests of the child.

**Informed decision making:** Judges rely on psychological assessment to make decisions that protect the emotional and psychological well-being of children and parents. The assessment provides objective data on parents' ability to manage stress, their emotional stability, and their ability to provide a safe and supportive environment for their children. As noted by Bala [23], "psychological assessments allow judges to make evidence-based decisions that consider the long-term well-being of children and the parents' ability to meet their emotional and physical needs."

**Conflict reduction:** Psychological evaluations can also help identify sources of conflict between parents and offer recommendations for reducing these conflicts. By providing a clear understanding of the emotional and psychological factors at play, forensic psychologists can suggest specific interventions, such as family therapy or mediation, that can help parents better manage their conflicts and reduce emotional distress. For decades, work such as that of Emery [24] has appeared, concluding that interventions based on psychological assessments can improve communication between parents and reduce the level of conflict, which is beneficial for all involved, especially the children.

**Risk assessment:** Another crucial function of the psychological evaluation is the identification of any potential risks to children, such as the presence of abuse, neglect or highly disruptive behaviors that may endanger the child's well-being. Forensic psychologists are trained to detect warning signs and provide clear recommendations for necessary protective measures. Johnston and Campbell [25] stated that "risk assessment is an essential part of psychological evaluations in custody cases, ensuring that judicial decisions minimize any potential for harm to the child."

## Impact on Children

We should not forget that, although the emotional distress of parents in custody variation proceedings can have a significant impact on children, there are multiple strategies and recommendations that can help mitigate this impact. Examples of such actions include promoting communication and cooperation between parents, providing psychological support to children, maintaining stable routines and providing training for parents are key measures to protect the emotional well-being and healthy development of children as detailed below.

### *Discussion on how the emotional distress of parents can affect children in custody variation proceedings*

The emotional distress of parents during custody variation proceedings can have a profound and lasting impact on the children involved. Children are especially vulnerable to conflict and tension between their parents, which can manifest itself in a variety of emotional, behavioral and academic problems.

**Emotional and behavioral problems:** Children exposed to the emotional distress of their parents may develop problems of anxiety, depression and stress. These emotional problems may stem from the perception of insecurity and fear of abandonment that children experience when their parents are in conflict. According to a study by Amato and Keith [26], children of parents who experience high levels of conflict during divorce and custody proceedings have a higher prevalence of behavioral problems and depressive symptoms.

**Academic impact:** Stress and distraction caused by parental conflict can negatively affect children's academic performance. Children who are concerned about their parents' well-being or who are exposed to frequent arguments may have difficulty concentrating on their studies and maintaining good school performance. Kelly and Emery [11] conclude that "children from families with high levels of parental conflict tend to have lower academic achievement compared to those whose parents have more cooperative relationships".

**Social development:** Parental emotional distress can also interfere with children's social development. Children may have difficulty forming and maintaining healthy relationships with peers and adults if they are constantly preoccupied with conflicts at home. Johnston and Campbell [25] suggested that "children in situations of high parental conflict may show socialization problems, such as social withdrawal and difficulty trusting others."

### *Recommendations to mitigate this impact on children*

To mitigate the impact of parental emotional distress on children during custody variation proceedings, it is crucial to implement specific strategies that promote children's emotional well-being and stability.

**Promote communication and cooperation between parents:** Encouraging open and cooperative communication between parents can significantly reduce the level of conflict and thus the negative impact on children. Family mediation and co-parenting therapies can be helpful in improving communication and resolving conflicts constructively. Emery et al. [9] noted that "mediation and family therapy programs can help parents manage their conflicts more effectively, which directly benefits children".

**Provide psychological support for children:** Children going through custody variation processes can benefit greatly from psychological intervention. Access to counseling and therapy can provide children with a safe space to express their emotions and receive emotional support. According to Pedro-Carroll [27], "early intervention and psychological support are essential to help children manage stress and adapt to changes in family structure."

**Establish stable and consistent routines:** Maintaining a stable daily routine can provide children with a sense of security and normalcy in the midst of family changes. It is important that both parents work together to ensure that children's routines, such as school schedules, extracurricular activities, and study time, remain consistent. Fabricius and Luecken [13] noted that "stable routines can help children feel more secure and reduce anxiety associated with changes in custody."

**Parent training and education:** Providing parents with resources and training on the impact of parental conflict on children can increase their awareness and ability to manage conflict in healthy ways. Co-parenting workshops and educational programs can equip parents with the skills necessary to minimize emotional stress on their children. Kelly and Emery [11] suggested that "parenting education programs can be effective in reducing conflict and improving emotional outcomes for Children."

## Interventions and Psychological Support

Psychological intervention strategies and ongoing support are essential to help parents manage their emotional distress during and after custody proceedings. Implementing a combination of individual, family, and group therapies, along with stress management techniques and parenting skills education, can promote emotional well-being and reduce the negative impact on parents and their children.

### *Proposal of psychological intervention strategies to help parents manage their emotional distress*

To address the emotional distress experienced by parents during custody variation proceedings, it is critical to implement psychological intervention strategies that promote emotional well-being and reduce the negative impact of parental conflict. Several intervention strategies are proposed below:

**Cognitive behavioral therapy (CBT):** CBT can be very effective in helping parents identify and modify negative thought patterns and dysfunctional behaviors. The therapy focuses on teaching coping skills and problem-solving techniques, which can reduce anxiety and stress associated with custody court proceedings [28].

**Family therapy:** Involving all family members in therapy can help improve communication and family dynamics. Family therapy allows parents and children to express their feelings and concerns in a safe environment, promoting empathy and mutual understanding [29].

**Family mediation:** Mediation can help parents resolve their conflicts peacefully and collaboratively. A neutral mediator facilitates communication and negotiation between the parties, which can reduce hostility and promote agreements that benefit both parents and children [9].

**Parent support groups:** Support groups offer parents the opportunity to share their experiences and feelings with others who are going through similar situations. These groups can provide a sense of community and emotional support, which is essential for managing stress and anxiety [30].

**Stress management therapy:** Stress management techniques, such as progressive muscle relaxation, meditation and mindfulness, can be helpful in reducing stress levels and improving emotional well-being. These techniques help parents stay calm and focused during the court process [31].

**Parenting skills education and training:** Providing parents with training in effective parenting skills can improve their confidence and competence in their parenting role. Parenting education can also reduce conflict and promote a more harmonious environment for children [32].

### **Recommendations for psychological support during and after the judicial process**

Psychological support is not only crucial during the judicial process, but also after a resolution has been reached. The following are recommendations for providing ongoing psychological support to parents:

**Continued individual therapy:** Holding regular individual therapy sessions can help parents process their emotions and adjust to changes in family dynamics after the court process. Ongoing therapy provides a safe space to address any lingering issues or new challenges that arise [28].

**Periodic monitoring and assessment:** Conducting periodic assessments of parents' emotional and mental well-being can identify any need for additional intervention. Regular follow-up allows for adjustment of intervention strategies as needed and provides ongoing support [33].

**Transition and adjustment support:** Forensic psychologists can help parents develop transition plans to adapt to the new custody arrangement. These plans may include strategies for managing time-sharing, communication between parents, and creating stable routines for the children [34].

**Community resources and support services:** Connecting parents with community resources, such as legal aid programs, mental health services, and family support organizations, can provide them with the additional support they need to manage their situation. These resources can offer practical and emotional assistance [30].

**Continuing education in co-parenting:** Offering workshops and educational programs on effective co-parenting can help parents develop skills to collaborate positively and reduce conflict. Continuing education can focus on effective communication, conflict resolution, and joint parenting planning [22].

**Early intervention for children:** Providing psychological support to children from the beginning of the judicial process can help mitigate the negative effects of parental conflict. Early intervention may include individual and group counseling for children, as well as programs designed to enhance their resilience and emotional well-being [27,35-38].

## **Conclusion**

This paper has addressed the various aspects related to the emotional distress of parents during judicial custody proceedings, from the presentation of the topic to the interventions and psychological support necessary to mitigate this distress. As a reflection we can say, without a doubt, that it is of utmost importance to recognize and

address the emotional distress of parents in custody proceedings, since their emotional well-being not only affects their ability to care for and support their children, but also influences the development and emotional stability of the children. Attention to the emotional needs of parents can significantly improve outcomes for both parents and children, promoting a smoother and less conflictual transition to new custody arrangements.

Thus, considering the emotional distress of parents in judicial decision-making can also lead to more equitable and effective solutions that take into account the well-being of the entire family. The implementation of appropriate psychological interventions and ongoing support are critical to help parents manage the stress and anxiety associated with these processes, which, in turn, benefits the family environment and the healthy development of children.

Finally, we conclude that a comprehensive approach that includes rigorous psychological evaluations and a robust support system for parents is essential to managing the emotional challenges that arise in custody proceedings. This approach not only improves the mental health of parents, but also protects the well-being and development of children, ensuring that custody decisions are in the best interests of all parties involved.

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