

THE IMPACT OF PARENTAL NARCISSISTIC PERSONALITY DISORDER ON CHILDREN AND WHY LEGAL INTERVENTION IS WARRANTED

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INTRODUCTION

When United States federal and state courts evaluate cases of child abuse and neglect, decisions frequently turn on the immediately visible¹ and possibly atrocious signs.² Perhaps the child has scars or injuries from physical abuse,³ or the parent suffers from an obvious mental illness or emotional disorder.⁴ Nonetheless, abuse is not always visible,⁵ especially when a parent exhibits undiagnosed Narcissistic Personality Disorder (“NPD”) or traits thereof.⁶

Definition of Narcissistic Personality Disorder and the Traits Thereof

While there have been numerous methods for organizing and understanding various mental disorders, the current approach used in psychological research relies heavily on the Diagnostic and Statistical Manual of Mental Disorders (DSM),⁷ which is known as “the reference for the characterization and diagnosis of mental disorders.”⁸ According to the DSM V, the essential features of personality disorders in general are impairments in personality (self and interpersonal) functioning and the presence of pathological personality traits.⁹ Impairments in functioning are defined as “limitations due to the illness” in carrying out one’s daily life.¹⁰ To diagnose Narcissistic Personality Disorder in particular, the DSM V specifies exactly how these impairments manifest.

¹ See *Doe v. Heck*, 327 F.3d 492 (1986).

² See *People v. Anderson*, 406 P.2d 43, 48 (Cal 1963). (A mother’s boyfriend stabbed a child sixty times, cut the child’s tongue and her genital area).

³ See *supra* note 1.

⁴ See *In the Interest of S.N.H., a child*, 300 Ga. App. 321 (where a mother had been diagnosed with a mood and personality disorder, yet the court held that the mental illness would not have a negative impact on her children.) See also *Doe I v. Doe*, 71 P.3d 1040 (Idaho 2003); *In The Interest of J.M.G.*, 214 Ga. App. 738, 448 S.E.2d 785 (1994)

In re Interest of D.L.S., 230 Neb. 435, 432 N.W.2d 31 (1988)

⁵ 3 Am. Jur. 2d *Child Neglect* §8 (1974).

⁶ Mark Banschick M.D., *The Narcissistic Mother: Are you dealing with a narcissistic mother?*, PSYCHOLOGYTODAY, [https:// www.psychologytoday.com/ blog/ the-intelligent- divorce/ 201311/ the-narcissistic-mother](https://www.psychologytoday.com/blog/the-intelligent-divorce/201311/the-narcissistic-mother)

⁷ DSM History, AMERICAN PSYCHIATRIC ASSOCIATION, [https:// www.psychiatry.org/ psychiatrists/ practice/ dsm/ history-of-the-dsm](https://www.psychiatry.org/psychiatrists/practice/dsm/history-of-the-dsm)

⁸ Shadia Kawa and James Giordano, *A Brief History of the Diagnostic and Statistical Manual of Mental Disorders: Issues and Implications for the Future of Psychiatric Canon and Practice*, BIOMEDCENTRAL, <https://peh-med.biomedcentral.com/articles/10.1186/1747-5341-7-2>

⁹ Shadia Kawa and James Giordano, *A Brief History of the Diagnostic and Statistical Manual of Mental Disorders: Issues and Implications for the Future of Psychiatric Canon and Practice*, BIOMEDCENTRAL, <https://peh-med.biomedcentral.com/articles/10.1186/1747-5341-7-2>

¹⁰ Bedirhan Ustun and Cille Kennedy, *What is “Functional Impairment”? Detangling disability from clinical significance*, WORLDPSYCHIATRY, [https:// www.ncbi.nlm.nih.gov/ pmc/ articles/ PMC2691163/](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2691163/)

The main features of this personality disorder include lack of empathy as well as feelings of entitlement.¹¹ Such lack of empathy often leaves individuals with NPD with the ability to easily manipulate the beliefs of those around them.¹² This manipulation often perpetuates the invisibility of the behavior, for an individual may coerce his or her family members into believing his or her behavior is completely normal and healthy.¹³

The legal evaluation of child abuse and neglect should be altered such that it emphasizes parental mental health and emotional disorders, specifically Narcissistic Personality Disorder, which can result in a detrimental yet “invisible” form of child abuse and or neglect¹⁴; while the toxic family dynamics resulting from the parent’s disorder are most often not immediately apparent,¹⁵ the effects on a child’s well-being nonetheless warrant protective and preventative measures. In fact, given that the effects of this invisible abuse often have the potential to be equally, if not more severe,¹⁶ it is not unreasonable to assert the need for comparable efforts aimed at prevention and remedy.

This change should be implemented in the following ways: (1) increased efforts by the legal system to increase its awareness of this particular type of emotional maltreatment along with legislation aimed at the recognition and remedying thereof; (2) increased involvement of professionals in child maltreatment proceedings, including a more

¹¹ NYU.EDU, <http://www.nyu.edu/gsas/dept/philo/courses/materials/Narc.Pers.DSM.pdf>. The full diagnostic criteria under the DSM V are as follows: “A. Significant impairments in personality functioning manifest by: 1) Impairments in self functioning (a or b) a) Identity: Excessive reference to others for self-definition and self-esteem regulation; exaggerated self-appraisal may be inflated or deflated, or vacillate between extremes; emotional regulation mirrors fluctuations in self-esteem. b) Self-direction: Goal-setting is based on gaining approval from others; personal standards are unreasonably high in order to see oneself as exceptional or too low based on a sense of entitlement; often unaware of own motivations. AND 2) Impairments in interpersonal functioning (a or b) a) Empathy: Impaired ability to recognize or identify with the feelings and needs of others; excessively attunes to reactions of others, but only if perceived as relevant to self; over-or underestimate of own effect on others. b) intimacy: Relationships largely superficial and exist to serve self-esteem regulation; mutuality constrained by little genuine interest in others’ experience and predominance for a need of personal gain. B) Pathological personality traits in the following domain: 1) Antagonism, characterized by: a) grandiosity: Feelings of entitlement, either overt or covert; self centeredness; firmly holding to the belief that one is better than others; condescending towards others. D) The impairments in personality functioning and E) The impairments in personality trait expression are not solely due to the direct physiological effects of a substance (e.g. drug of abuse, medication) or a general medical condition.¹¹

the individual’s personality trait expression are not better understood as normative for the individual’s developmental stage or socio-cultural environment.

¹² Linda Martinez-Lewi, Ph.D., *No One Believes You—Psychological Damage Caused by Narcissistic Parent*, <http://thenarcissistinyourlife.com/no-one-believes-you-psychological-damage-caused-by-narcissistic-parent/>

¹³ *Id.*

¹⁴ BANSCHICK, *supra* note 6, at 1.

¹⁵ *Id.*

¹⁶ Douglas LaBier, *Childhood Psychological Abuse Has Long-Lasting Impact*, HuffingtonPost.com http://www.huffingtonpost.com/douglas-labier/childhood-psychological-a_b_6301538.html

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thorough analysis of parental behavior such that symptoms of the personality disorder may be detected along with child interviews and evaluations consisting of questions specifically aimed at discerning family dynamics; (3) accessible support and mental health care to families affected by the illness, for simply separating parents and children is not a viable long-term solution; and (4) preventative efforts aimed at raising awareness through education of parents, children, and professionals paired with efforts to reduce stigmatization of the personality disorder.

Part I of this Note compares the potential psychological harm of this personality disorder on children to the harm caused by more visible, apparent forms of child abuse and neglect. Part II explores how more visible forms of abuse and neglect influence court proceedings. Part III explores current federal and state legislation aimed at preventing child abuse and neglect and argues for adjustments that emphasize more invisible forms of maltreatment. Part IV proposes possible solutions intended to work towards increased awareness of the implications surrounding emotional maltreatment and developing a legal framework that provides for equal prioritization for its prevention and remedy. Assessing the child's situation in such cases of invisible maltreatment could prove more difficult, time-consuming, and expensive than assessment for the more apparent forms of maltreatment, for not only would it require increased involvement of professionals and more thorough assessments, it will likely raise questions of family privacy rights¹⁷; therefore, the proposed framework will take such concerns into account.

I. BACKGROUND

A. Expanding Body of Research on NPD and Effects on Family Dynamics

Narcissistic traits are increasing in the U.S: “[t]he rise in narcissism is accelerating, with scores rising faster in the 2000s than in previous decades. By 2006, 1 out of 4 college students agreed with the majority of the items on a standard measure of narcissistic traits.”¹⁸ Since this personality disorder has become so widespread and may subsequently be viewed as a mainstream phenomenon, it may go undetected. Currently, it affects approximately 6.2% of the adult population.¹⁹

¹⁷ See *infra* Section D.

¹⁸ JEAN M. TWENGE, PH.D. & W. KEITH CAMPBELL, PH.D., *THE NARCISSISM EPIDEMIC: LIVING IN THE AGE OF ENTITLEMENT 2* (2009).

¹⁹ *Statistics*, PERSONALITY DISORDERS AWARENESS NETWORK, [http:// www.pdan.org/ what-](http://www.pdan.org/what-)

Having this personality disorder while caring for a child can prove extremely difficult for parents, given how narcissism is associated with both lack of self-acceptance as well as lack of acceptance and empathy for others.²⁰ Nonetheless, empathy is an extremely fundamental aspect of parenting: “empathy is more than the foundation of emotional intelligence; it’s the foundation of effective parenting . . . Because it’s essential to [parents’] ability to understand [their] child and connect with [him or] her . . . And because without it, [their] child simply won’t feel loved . . .”²¹ Children develop empathy “as long as [they] experience empathy from their caretakers.”²² Because lack of empathy is a cornerstone feature of narcissism,²³ narcissism has become a major area of research study with regards to understanding empathy development.²⁴ Narcissistic individuals may at first appear extremely confident, for they present a grandiose image of themselves in their interactions with others.²⁵ Despite the appearance of high self-esteem, studies demonstrate that such grandiosity serves as a mere façade, which is utilized to “distort reality to protect their fragile view of self.”²⁶ By leading individuals to constantly compensate for low implicit self-esteem via self-illusion and grandiosity, narcissism may force them to engage in seemingly escape-like behavior in an effort to avoid acknowledging certain aspects of themselves.²⁷ Consequently, without full recognition and acceptance of oneself, vulnerabilities and flaws included, the individual cannot fully view the self and others with complete compassion and acceptance.²⁸

According to one research study, narcissism and confidence (high self-esteem) are completely different: “[n]arcissism refers to the feeling of being better than others and the feeling of being more entitled than others and creating admiration from others, but self-esteem is more a genuine feeling of being worthy.”²⁹ The difference is a matter of how one views him or her self in relation to others.³⁰ Brad Bushman, a researcher at the University of Amsterdam, laid out the difference when explaining findings from a study conducted in 2015: “[p]eople with high self-esteem

are-personality-disorders/ statistics-3/ #.WJ0zHiMrL_

²⁰ See *supra* note 11.

²¹ *Empathy: Foundation of Emotional Health*, AHA!PARENTING, <http://www.ahaparenting.com/parenting-tools/emotional-intelligence/emotional-health>.

²² *Id.*

²³ Gabriel, M. T., Critelli, J. W. and Ee, J. S. (1994), *Narcissistic Illusions in Self-Evaluations of Intelligence and Attractiveness*. *Journal of Personality*, 62: 143–155.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Kelly Wallace, *Parents May be to Blame for Narcissistic Kids, Says Study*, CNN.COM, <http://www.cnn.com/2015/03/09/living/feat-narcissistic-kids-parents-study/>

³⁰ *Id.*

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think they're as good as others, whereas narcissists think they're better than others."³¹

Instead of simply placing blame on a parent with Narcissistic Personality disorder, understanding the origins of the disorder's development as a framework for deciphering the parent's interaction with his or her children would be much more productive. In fact, the question as to how and why Narcissistic Personality Disorder develops suggests that the answer begins with examining the parent's own childhood, specifically the parent's relationship with his or her parents.³² A research study from the Netherlands suggests that parents who overvalue their child, essentially telling him or her that he or she is better than others, might demonstrate how narcissism and the accompanying low self-esteem develop.³³ Children experience emotional highs when they are praised and made to feel as though they are better than others and consequently more entitled to admiration; however, when they do not receive this type of admiration, this can lead to lashing out and aggression.³⁴ Some experts believe that the root of the problem can be traced to a perceived lack of parental warmth and acceptance³⁵; rather than providing unconditional warmth and acceptance, parents of narcissistic children tend to simply tell a child that he or she is better and more entitled than others.³⁶ However, this method of praise can prove problematic, given how "[a study] found that children who feel warmth from their parents were more likely to have a higher self-esteem."³⁷ Even though parents may be well-intentioned in over-valuing their children, falsely believing such could help raise self-esteem, Eddie Brummelman, a researcher at the University of Amsterdam, explained: "[r]ather than raising self-esteem, overvaluing practices may inadvertently raise levels of narcissism."³⁸ Because the origins of narcissistic personality disorder are so complex and often deeply rooted in a parent's own childhood,³⁹ the idea of intervention by outsiders may appear controversial and perhaps even intrusive.⁴⁰ However, despite the personal nature of the

³¹ Jeff Grabmeier, *How Parents May Help Create their Own Little Narcissists*, OSU.EDU, <https://news.osu.edu/news/2015/03/09/little-narcissists/>

³² See Kelly Wallace, *Parents May be to Blame for Narcissistic Kids, Says Study*, CNN.COM <http://www.cnn.com/2015/03/09/living/feat-narcissistic-kids-parents-study/>

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ Jeff Grabmeier, *How Parents May Help Create their Own Little Narcissists*, OSU.EDU, <https://news.osu.edu/news/2015/03/09/little-narcissists/>

³⁹ Kelly Wallace, *Parents May be to Blame for Narcissistic Kids, Says Study*, CNN.COM, <http://www.cnn.com/2015/03/09/living/feat-narcissistic-kids-parents-study/>; Jeff Grabmeier, *How Parents May Help Create their Own Little Narcissists*, OSU.EDU, <https://news.osu.edu/news/2015/03/09/little-narcissists/>

⁴⁰ See *infra* Section D.

problem, intervention is necessary, given the impact someone with the disorder may have on those close to him or her, especially children.

B. Impact on Children of Parents with NPD

Relationship dynamics between parents with NPD and their children are such that the focus lies primarily on the parent's needs and feelings.⁴¹ Unfortunately, the child often ends up serving the parent's emotional needs instead of the other way around.⁴² The parent's motives for raising a child are often warped, as "[they] don't have children because they want to nurture and guide their offspring through life; they have children so that they have an automatic, built-in relationship in which they have power, one in which the narcissist can write the rules without any checks and balances."⁴³ While healthy parents permit their children to develop their individual personalities, children of parents with NPD unfortunately do not have such freedom, as the child's main goal becomes ensuring his or her parent's satisfaction⁴⁴; these children "bear tremendous anxiety from a young age as they must continually push aside their own personality in order to please the parent and provide the mirror image the parent so desperately needs."⁴⁵

Although a relationship with the parent with Narcissistic Personality Disorder is generally extremely harmful to the child as a result of the specific dynamics, the fact that the parent is actually harming the child is often not apparent to anyone, including family members and outsiders; this invisibility appears to only perpetuate the harmful family dynamic. It seems that the most unfortunate aspect of this particular parent-child relationship is that fact it is usually well hidden from the outside world and behind closed doors, tucked far from anyone who may be able to intervene for the sake of the child's healthy development.⁴⁶ Children often suffer devastating psychological effects in silence, unaware of the problem.⁴⁷ Unlike physical abuse, the abused child of a parent with NPD

⁴¹ Seth Meyers, *Narcissistic Parents' Psychological Effect on Their Children: Narcissistic parents will never understand the breadth of their impact on kids*, PSYCHOLOGYTODAY,

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Seth Meyers, *Narcissistic Parents' Psychological Effect on Their Children: Narcissistic parents will never understand the breadth of their impact on kids*, PSYCHOLOGYTODAY, <https://www.psychologytoday.com/blog/insight-is-2020/201405/narcissistic-parents-psychological-effect-their-children>

⁴⁶ Mark Banschick M.D., *The Narcissistic Mother: Are you dealing with a narcissistic mother?*, psychologyToday, <https://www.psychologytoday.com/blog/the-intelligent-divorce/201311/the-narcissistic-mother>; *See supra* Section A.

⁴⁷ Seth Meyers, *Narcissistic Parents' Psychological Effect on Their Children: Narcissistic parents will never understand the breadth of their impact on kids*, PSYCHOLOGYTODAY, <https://www.psychologytoday.com/blog/insight-is-2020/201405/narcissistic-parents-psychological>

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often does not know something is not quite right with their relationship with their parents until adulthood, as “it takes these children so many years of frustration and anguish to figure out that mom or dad isn’t quite right; until that point, these children are merely dancing as fast as they can, trying to please the impossible-to-please narcissistic parent.”⁴⁸ It is extremely difficult to spot these parents as an outsider, for the parent often seems to fit the ideal parental mold, as he or she presents as an overachiever who only wants the best for his or her family.⁴⁹ A narcissistic mother is often “[t]he woman everyone admires—she’s a judge, lawyer, doctor, or teacher. She’s on the PTA or is the power behind your church or synagogue. She smoothly balances being socially nimble, while contributing to the community in a way that leaves others in awe. In their eyes, she’s superwoman.”⁵⁰ It is precisely this discreet, hidden dynamic of the personality disorder that presents a dilemma for determining precisely how and where to look for a point of intervention.

The other barrier to receiving outside help and beginning on a path towards protecting themselves from this toxic parental relationship stems from the narcissistic parent’s ability to manipulate the beliefs of everyone around him or her, including other family members.⁵¹ Thus, if a child attempts to alert other family members to the parent’s behavior, the family members will most likely not believe him or her.⁵² Instead of responding to the child with support and understanding, “the family is shocked; the victim is treated with disdain and often told that he/she is the sick one or that this is all lies to get attention . . . The child victims become family pariahs. Often the suggestion is whispered that they belong in a psychiatric institution or that they are in need of intensive psychotherapy.”⁵³

Despite the discreet, hidden nature of this form of emotional abuse, it can be just as, if not more harmful, to a child’s well being as physical and more visible, apparent forms of emotional abuse.⁵⁴ According to a report by the American Psychological Association (APA), emotionally abused children sometimes experience “worse mental health problems

effect-their-children

⁴⁸ *Id.*

⁴⁹ Mark Banschick M.D., *The Narcissistic Mother: Are you dealing with a narcissistic mother?*, PSYCHOLOGYTODAY, [https:// www.psychologytoday.com/ blog/ the-intelligent-divorce/ 201311/ the-narcissistic-mother](https://www.psychologytoday.com/blog/the-intelligent-divorce/201311/the-narcissistic-mother)

⁵⁰ *Id.*

⁵¹ Linda Martinez-Lewi, Ph.D., *No One Believes You—Psychological Damage Caused by Narcissistic Parent*, [http:// thenarcissistinyourlife.com/ no-one-believes-you-psychological-damage-caused-by-narcissistic-parent/](http://thenarcissistinyourlife.com/no-one-believes-you-psychological-damage-caused-by-narcissistic-parent/)

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Douglas LaBier, *Childhood Psychological Abuse Has Long-Lasting Impact*, HUFFINGTONPOST.COM, [http:// www.huffingtonpost.com/douglas-labier/childhood-psychological-a_b_6301538.html](http://www.huffingtonpost.com/douglas-labier/childhood-psychological-a_b_6301538.html)

[than] children who are physically or sexually abused, yet psychological abuse is rarely addressed in prevention programs or in treating victims.”⁵⁵ Specifically, the APA report found that children who experienced psychological abuse “suffered from anxiety, depression, low self-esteem, symptoms of post-traumatic stress and suicidality at the same rate and, in some cases, at a greater rate than children who were physically or sexually abused.”⁵⁶ The report found that the most common mental illnesses most strongly associated with psychological abuse were “depression, general anxiety disorder, social anxiety disorder, attachment problems and substance abuse.”⁵⁷ Children experiencing psychological abuse specifically as a result of narcissistic parenting may even experience Post-Traumatic Stress Disorder (“PTSD”).⁵⁸ PTSD may develop as a result of the child experiencing constant fear as a result of the parent’s behavior:

“[t]he more abusive narcissistic parents become, the more likely they are to traumatize their children. This can lead to a fearful life and to PTSD. Abuse throws us into a state of constant alertness, vigilantly prepared to dodge the next danger. This typically leads to chronic anxiety, sudden memories of abuse, emotional numbing, and a foreshortened sense of future, in which people become so fixed on simply surviving that they lose the ability to imagine life beyond the present.”⁵⁹

These psychological effects unfortunately last many years, usually throughout adulthood, making life very difficult across multiple arenas, including work and relationships, as experiencing such abuse presents one with numerous obstacles to developing a solid sense of self.⁶⁰ Children of narcissistic parents often experience a fear of abandonment, as they have learned they must earn love from their parent by satisfying his or her every desire, or else it will be taken away.⁶¹ Because children need to be nurtured and taken care of, this burden of conditional love can be especially difficult.⁶² However, this difficult burden does not simply go away once the adult child moves out of the house; instead:

[it] can carry on into adulthood, [making the child feel] that [he or she]

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Craig Malkin, *8 Common Effects of Narcissistic Parenting*, HUFFINGTONPOST.COM, http://www.huffingtonpost.com/entry/8-common-effects-of-narcissistic-parenting_us_5811fc8ee4b096e870696226

⁵⁹ *Id.*

⁶⁰ DECISION MAKING CONFIDENCE, <http://www.decision-making-confidence.com/adult-children-of-narcissists.html> (last visited Jan. 14, 2018).

⁶¹ *Id.*

⁶² *Id.*

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need[s] to perform to the standards set by [his or her] spouse or significant other. [He or she] might feel that [he or she is] only there to serve [his or her] counterpart, always feeling less skilled and deserving than the other, and doing whatever is needed to prove [him or herself] in the relationship.⁶³

Overall, the psychological aftereffects make adult life extremely complicated, manifesting in an undeveloped personality, more abusive relationships, dependency, chronic stress, all of which often require years of professional help.⁶⁴

C. Protecting Children Living Parent with Narcissistic Personality Disorder Should be a Priority Despite Initial Impressions

The effects of psychological abuse⁶⁵ and physical abuse are equal in magnitude and severity.⁶⁶ Both have the potential to damage a child's quality of life and mental health.⁶⁷ Some of the long-term effects of physical abuse include "risk of experiencing low self-esteem, depression, drug or alcohol dependence, and increased potential for child abuse as a parent."⁶⁸ The effects of psychological abuse are just as, if not more, severe.⁶⁹ An APA report confirmed:

Children who are emotionally abused and neglected face similar and sometimes worse mental health problems as children who are physically or sexually abused, yet psychological abuse is rarely addressed in prevention programs or in treating victims. The report pointed out that children who had been psychologically abused suffered from anxiety, depression, low self-esteem, symptoms of post-traumatic stress and suicidality at the same rate and, in some cases, at a greater rate than children who were physically or sexually abused. Psychological abuse was most strongly associated with depression, general anxiety disorder, social anxiety disorder, attachment problems

⁶³ Michelle Piper, *Adult Children of Narcissists*, NARCISSISTICMOTHER.COM, <http://www.narcissisticmother.com/adult-children-of-narcissists>

⁶⁴ <http://www.decision-making-confidence.com/adult-children-of-narcissists.html>

⁶⁵ *What is Emotional Neglect: How to tell if your life partner is emotionally neglectful*, <https://www.psychologytoday.com/blog/what-would-aristotle-do/201311/what-is-emotional-neglect> (defining emotional abuse as "involv[ing] abusive commissions, that is *doing* things to another that can be emotional hurtful or traumatizing [.]")

⁶⁶ Douglas LaBier, *Childhood Psychological Abuse Has Long-Lasting Impact*, HuffingtonPost.com, <http://www.huffingtonpost.com/douglas-labier/childhood-psychological-abuse-6301538.html> ("[A] study confirms that childhood psychological abuse has lasting, significant damage, equal to or exceeding the long-term consequences of physical abuse.")

⁶⁷ *Id.*

⁶⁸ FERRYCOUNTY.COM, http://www.ferrycounty.com/Courts%20and%20Law/Sex%20Offender%20Info/Impact_of_Physical_Abuse_on_Children.pdf

⁶⁹ *Child Psychological Abuse as Harmful as Sexual or Physical Abuse*, APA.ORG, <http://www.apa.org/news/press/releases/2014/10/psychological-abuse.aspx>

and substance abuse.”⁷⁰

Narcissistic Personality Disorder is not typically considered one of the “dangerous” or “severe” mental illnesses, and living with a Narcissistic parent does not necessarily place a child in physical danger.⁷¹ Despite this initial impression that the disorder is benign in that it does not rise to this level, the diagnosis should not be the only factor taken into account when determining parental fitness; this inquiry must also examine the parent’s behavior, which has much greater significance for purposes of deciphering the dynamics of a parent-child relationship.⁷²

Experts have defined key factors for determining parental fitness, including consistency, patience, compassion, affection, understanding, and empathy.⁷³ Parents exhibiting NPD symptoms by definition would unlikely be able to satisfy the latter two elements, which involve “. . . not only . . . sympathiz[ing] with a child’s worldview and experience . . . but also . . . hav[ing] a deeper connection to why the child does not understand the rules like an adult.”⁷⁴ This deficiency can be particularly concerning, for “[c]orrective action, encouragement, and limit setting are better achieved when offered with understanding and empathy.”⁷⁵ Although considering specific labels and diagnostic criteria may prove helpful in determining a child’s risk for psychological abuse, permitting our inquiry to terminate here may prove quite limiting, for it can result in overlooking major warning signs.⁷⁶ Since the effects of the parent’s personality disorder are most often hidden, there may not be sufficient evidence to demonstrate child abuse and neglect or risk thereof.⁷⁷

Regardless, understanding the various ways in which a Narcissistic parent’s behavior may impact family dynamics seems to be an integral first step in assessing the severity of the child’s situation. Abuse by Narcissistic parents can be categorized into different subtypes⁷⁸; two common forms are “rejecting” and “ignoring.”⁷⁹

The “rejecting” form of emotional abuse by a narcissistic parent includes “harsh criticism, belittling, labeling, yelling, screaming or swearing, [. . .] humiliation or demeaning jokes, teasing about child’s mental capabilities or physical appearance, refusing love, attention and

⁷⁰ *Id.*

⁷¹ *See supra* note 11.

⁷² Brian Van Brunt, Ann A. Zedginidze & Patti A. Light, *The Unfit Parent: Six Myths Concerning Dangerousness and Mental Illness*, 58 FAM. CT. REV. 18 (2016).

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ 3 Am. Jur. 2d *Child Neglect* §8 (1974).

⁷⁸ 6 *Types of Emotional Abuse by Narcissistic Parents*, TRUTHINSIDEOFYOU, <http://www.truthinsideofyou.org/6-types-of-emotional-abuse-by-narcissistic-parents/>

⁷⁹ *Id.*

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touch, physical or emotional abandonment, shunning the child from the family altogether”⁸⁰ This particular form of abuse is resonant of the classic features of emotional “abuse”:

A parent or caregiver may be emotionally abusing a child if they routinely: ridicule the child and mock the child’s appearance, ideas, abilities, fears or accomplishments; criticize the child and undermine the child’s confidence and feelings of self-worth with cruel remarks; reject the child by consistently denying affection or clearly favoring a sibling; humiliate the child or shame the child in front of others as a form of discipline; blame the child without cause or make the child feel responsible for anything that goes wrong.⁸¹

In sum, rejecting behavior conveys to a child that he or she is worthless and unwanted.⁸² Many of the ways in which rejecting Narcissistic parents interact with their children indicates this type of abuse; ⁸³ thus, a child might be at increased risk for emotional abuse if subjected to the rejecting form of narcissistic parenting.⁸⁴

“Ignoring” behavior, another common category of emotional abuse through Narcissistic parenting, seems most strongly associated with emotional neglect, which is defined as “fail[ing] to express warmth or tenderness to the child . . . isolat[ing] the child and refus[ing] to allow the child to interact with others.”⁸⁵ The signs of ignoring emotional abuse are characterized by lack of attachment, nurturing, affection, and interaction with the child.⁸⁶ Specific signs of this emotional abuse subtype include:

Inconsistent or no response to a child’s invitations to connect; failure to attend to infants physical, social or emotional needs, refusing to acknowledge a child’s interests, activities, schooling, peers, etc.; abandonment or refusing to acknowledge a child as your own . . . [and] inability or failure to engage a child emotionally or protect a child from harm.

Because comparing the impact of this seemingly “less severe” mental illness to those which that are generally regarded as “more severe” demonstrates that both may yield harmful effects, understanding how courts have ruled in the past when determining how to protect children from parents with a “more severe” mental illness can provide a starting

⁸⁰ *Types of Emotional Abuse*, [http:// www.teach-through-love.com/ types-of-emotional-abuse.html](http://www.teach-through-love.com/types-of-emotional-abuse.html)

⁸¹ [http:// www.preventchildabuse.org/ files/ 8513/ 0392/ 0176/ RecogEmotAbuse.pdf](http://www.preventchildabuse.org/files/8513/0392/0176/RecogEmotAbuse.pdf)

⁸² *6 Types of Emotional Abuse by Narcissistic Parents*, TRUTHINSIDEOFYOU, [http:// www.truthinsideofyou.org/ 6-types-of-emotional-abuse-by-narcissistic-parents/](http://www.truthinsideofyou.org/6-types-of-emotional-abuse-by-narcissistic-parents/)

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Recognizing Emotional Abuse*, PREVENTCHILDABUSENEWYORK, [http:// www.preventchildabuse.org/ files/ 8513/ 0392/ 0176/ RecogEmotAbuse.pdf](http://www.preventchildabuse.org/files/8513/0392/0176/RecogEmotAbuse.pdf).

⁸⁶ *6 Types of Emotional Abuse by Narcissistic Parents*, TRUTHINSIDEOFYOU, [http:// www.truthinsideofyou.org/ 6-types-of-emotional-abuse-by-narcissistic-parents/](http://www.truthinsideofyou.org/6-types-of-emotional-abuse-by-narcissistic-parents/).

point for determining how to protect children experiencing the invisible abuse of a parent with NPD. Although the first impulse may be to completely cut off contact with a parent affected by a mental disorder, research demonstrates that this is not advisable even in the case of more “severe” illnesses.⁸⁷ For example, in cases where a parent has Post-Traumatic Stress Disorder, maintaining a parent-child relationship may prove beneficial for both parties involved.⁸⁸ Allowing a combat veteran to remain connected with his or her child permits him or her to heal by “restor[ing] the vanished sense of self and purpose through interpersonal connections.”⁸⁹ Maintaining the connection also proves helpful for the child, as he or she “benefits . . . immediately with each restored connection from the knowledge that he or she has meaningfully aided the parent in recovery.”⁹⁰ Perhaps a similar approach could be applied to formulating a framework for beginning to understand how to approach healing parent-child relationships in cases of Narcissistic Personality Disorder. Nonetheless, the approach would probably have to be adjusted somewhat, given how the nature of the disorder is such that the affected parent usually does not even recognize it, much less seek out help on his or her own initiative.⁹¹ Applying a similar approach would depend on the willingness of the parent to admit the problem and dedicate himself or herself to therapy and other forms of intervention.

D. Recognizing Limitations to Intervention

Despite the evident need to protect children from a parent with this particular personality disorder, it must be recognized that there are limitations as to how far this type of intervention can and should go. While the legal system can attempt to implement certain safeguards and preventative measures to a child’s emotional health and well being, it cannot and arguably should not take the extreme measure of simply terminating parental rights. There are constitutional limitations to legal intervention into private family matters, for “[t]he Supreme Court has recognized that ‘freedom of personal choice in matters of family life is protected by the Due Process Clause of the Fourteenth Amendment.’”⁹² Thus, a parent’s decision regarding how to raise a child is protected under

⁸⁷ Evan R. Seamone, *Improved Assessment of Child Custody Cases Involving Combat Veterans With Post-Traumatic Stress Disorder*, 50 FAM. CR. REV. 310, 328 (2012).

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ Randi Kreger, *Will Narcissists Seek Therapy?*, BPDcentral.com, <http://www.bpdcentral.com/blog/?Will-Narcissists-Seek-Therapy-26>.

⁹² Gargi Sen, Tiffanie Tam, *Child Custody and Termination of Parental Rights*, 16 GEO. J. GENDER & L. 41, 75 (2015).

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the Fourteenth Amendment. In *Stanley v. Illinois*, the court reasoned the “[t]he rights to conceive and raise one’s children have been deemed ‘essential,’ basic civil rights”⁹³

However, this constitutional right is not absolute.⁹⁴ Case law has developed various tests for determining whether the child’s best interests warrant termination of parental rights. One such test articulated in *New Jersey Division of Child Protection and Permanency v. TLO* requires proof by clear and convincing evidence of four different prongs:

1. The child’s safety, health or development has been or will continue to be endangered by the parental relationship;
2. The parent is unwilling or unable to eliminate the harm facing the child or is unable to provide a safe and stable home for the child and the delay of permanent placement will add to the harm . . . ;
3. The [D]ivision has made reasonable efforts to provide services to help the parent correct the circumstances which led to the child’s placement outside the home and the court has considered alternative to termination of parental rights; and
4. Termination of parental rights will not do more harm than good.⁹⁵

At first, it seems rather unlikely that prongs of such a test could be satisfied in cases of the invisible emotional abuse inflicted by a parent with NPD. Clearly, it could be extremely difficult to obtain the evidence required to prove each by a clear and convincing standard; nonetheless, this test could most likely be satisfied, but only after a thorough psychological analysis of the parent and child as well as an investigation into family dynamics. Moreover, the termination of parental rights based on mental illness specifically poses higher standard:

“A parent’s mental condition can support termination of parental rights but only if it rises to the level described under the termination statute. Termination of parental rights, based on failure to rectify a mental condition, requires a showing of more than merely the presence of mental or emotional instability or problems. The incapacity must be so severe that it renders the parent incapable of providing minimally acceptable care, and the condition cannot be reversed or improved in a reasonable time.”⁹⁶

In *J.B.B. v. Alabama Dept. of Human Resources*, an example of a case in which the court held that parents were incapable of meeting a child’s needs, the court reasoned that there was sufficient evidence to

⁹³ *Stanley v. Illinois*, 405 U.S. 645.

⁹⁴ *See infra* note 95.

⁹⁵ *New Jersey Division of Child Protection and Permanency v. TLO*

⁹⁶ 146 Am. Jur. Trials *Litigation of Proceeding for Involuntary Termination of Parental Rights Based on Mental and/or Physical Illness, Disability, or Deficiency of Parent* §†3 (2016).

involuntarily terminate the mother and father's parental rights on grounds they were unable to care for their children and meet their needs financially, mentally, and emotionally.⁹⁷ The father had been living with his parents, and the mother was homeless; neither parent had a stable employment history.⁹⁸ Because both parents suffered "cognitive deficits and emotional disturbances that prevented them from taking care of themselves in a healthy manner," they were not capable of "ensur[ing] that their children thrived in a safe environment."⁹⁹

In the case of *In re Star C*, the court was faced with yet another apparent case of mental illness in deciding whether termination of parental rights would be appropriate. It was held that a parent was unable to provide adequate childcare; therefore, the court determined that termination of parental rights would be the most appropriate action.¹⁰⁰ The father had been diagnosed with schizophrenia, which, according to the testimony of a psychologist, caused auditory hallucinations.¹⁰¹ The hallucinations were problematic, as they had "caused the father to become disorganized, combative, and agitated."¹⁰² Moreover, the father had not been taking his prescribed medication, and according to testimony of a caseworker, the father's inability to concentrate resulted in his failure to learn necessary skills during parenting classes.¹⁰³ Thus, the court reasoned that the mental illness rendered him ". . . presently, and for the foreseeable future, unable to provide proper and adequate care for child due to mental illness."¹⁰⁴

E. Current Legal Treatment of Mental Illness and Parenting Ability

Decisions regarding neglect and abuse in cases of a parent with a mental illness do not turn on the presence of the mental illness alone.¹⁰⁵ Rather, there must be a causal connection between the mental illness "and actual or potential harm to the child."¹⁰⁶ Courts generally do not view mental illness as an automatic indicator that the parent is unfit; instead, the court should focus on "the effect of the mental illness on the parent's

⁹⁷ *J.B.B. v. Alabama Dept. of Human Resources*, 120 So. 3d 517 (Ala. Civ. App. 2013).

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *In re Star C.*, 121 A.D.3d 1597(4th Dep't 2014).

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Matter of Alexis S.G. [Shanese B.]*, 107 A.D.3d at 799, quoting *Matter of Joseph A. [Fausat O.]*, 91 A.D.3d 638, 640; see *Matter of Soma H.*, 306 A.D.2d at 531)

¹⁰⁶ *Id.*

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interactions with the child.”¹⁰⁷ Therefore, the mental illness is only relevant for determining parental fitness if the parent jeopardizes the child’s emotional or physical well being; nevertheless, if the parent presents as having the mental illness completely under control, then “it is no more relevant than the parent’s job performance or athletic prowess.”¹⁰⁸ When representing a mentally ill parent in a custody case, an attorney must explain the quality of the parent-child relationship and draw attention to the high quality parenting.¹⁰⁹ When representing the non-mentally ill parent, the attorney emphasizes how the other parent’s illness negatively impacts the child, thereby rendering the other parent unfit and inadequate.¹¹⁰ In *In the Interest of S.N.H., a child*, the court held that a parent’s mental illness rendered her unfit to parent after determining by clear and convincing evidence that the parent’s mental illness negatively impacted the child.¹¹¹ The mother had been diagnosed with mood and personality disorder yet did not obtain medication despite a psychologist’s recommendation.¹¹² Moreover, the psychologist testified that the mother’s illness would negatively impact the child and render her an unfit parent, for she needed the medication she had refused to obtain in order to control her anger and volatility.¹¹³

II. ANALYSIS

A. Federal Law: Current Child Abuse and Neglect Statutes, Rulings, and Preventative Measures

The Federal Child Abuse Prevention and Treatment Act (“CAPTA”) defines child abuse and neglect as “any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation”

The federal statute does not provide states with extensive guidance concerning what constitutes abuse and neglect, as it leaves states to provide their own definitions while “setting minimum standards for states that accept CAPTA funding.”¹¹⁴ Mandatory reporting, one of the primary

¹⁰⁷ 1 Ann M. Haralambie, *Handling Child Custody, Abuse and Adoption Cases* § 8:26 (2017).

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *In the Interest of S.N.H., a child*, 300 Ga. App. 321, (2009).

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Definitions of Child Abuse and Neglect in Federal Law*, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, [https:// www.childwelfare.gov/ topics/ can/ defining/ federal/](https://www.childwelfare.gov/topics/can/defining/federal/)

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measures intended to detect and resolve child abuse,¹¹⁵ most likely will not detect a child victim of this type of parenting, as it appears primarily aimed at the detection of physical abuse. Mandatory reporting has been implemented in the following manner:

All states . . . have statutes identifying persons who are required to report suspected child maltreatment to an appropriate agency, such as child protective services, a law enforcement agency, or a State's toll-free child abuse reporting hotline.¹¹⁶

Though all states have different laws for mandatory reporting, many have the same requirement for "Standards for Making a Report:" "A report must be made when the child is known or suspected of being a victim of abuse or neglect."¹¹⁷ Given the nature of NPD, it is extremely unlikely that a mandatory reporter, such as a teacher, would have reason to believe a child is experiencing emotional abuse without first asking a child questions to determine his or her family dynamics. While mandatory reporting procedures haven't proven effective in protecting a child from imminent physical abuse and neglect, there is yet to be a comparable procedure in place specifically aimed at preventing psychological harm.

B.State Law: Definitions of Abuse and Neglect; Evidentiary Standards

i. Definitions and Resulting Challenges in Judicial Reasoning

The previous Section attempted to explain emotional "abuse" and "neglect" as distinct phenomena for purposes of deciphering the various manifestations of child maltreatment dynamics that make up an extremely complex parent-child relationship. However, this Section is going to essentially combine the terms, usually referencing them as "emotional maltreatment" in an effort to avoid losing sight on the primary legal challenge, namely the legislative and judicial tendency to view and consequently treat physical and emotional maltreatment differently.

Prior to explaining how and why this differential legal treatment of physical and emotional maltreatment is harmful and proposing

¹¹⁵ Hafemeister, Thomas L., *Castles Made of Sand, Rediscovering Child Abuse and Society's Response*.

¹¹⁶ *Definitions of Child Abuse and Neglect in Federal Law*, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, <https://www.childwelfare.gov/pubPDFs/manda.pdf#page=1&view=Introduction>

¹¹⁷ *Definitions of Child Abuse and Neglect in Federal Law*, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, <https://www.childwelfare.gov/pubPDFs/manda.pdf#page=1&view=Introduction>

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possibilities aimed at remedying it, it is necessary to remain aware of the challenges associated with formulating a solution. As explained in the previous section, one of the primary roadblocks is the tendency of certain types of emotional maltreatment to remain hidden from plain view. Since emotional and physical abuse may occur together in multiple cases, perhaps the physical maltreatment overshadows the less overt and seemingly less urgent emotional threats. Looking to statutes, evidentiary standards, and court procedure may help explain this prioritization of physical safety at the expense of overlooking mental and emotional well-being.

Perhaps the complexities of clinical definitions and their semantics contribute to this distinct prioritization. One possibility is lack of professional resources to fully grasp subtle distinctions. The other relates to the urgency issue mentioned previously, for maybe courts do not feel their time is best spent fully grasping these definitions when the priority is the child's "safety." The concept of "emotional neglect" may help illustrate the roots of this potential dilemma.¹¹⁸ Emotional neglect, unlike physical neglect is actually a type of abuse.¹¹⁹ Emotional neglect is defined as "failing to provide emotional support that one should provide, given one's relationship to the other."¹²⁰ What appears to be a possible point of uncertainty that leads to confusion and oversight for courts in numerous cases is that the emotional neglect is not always accompanied by physically neglecting the child's basic needs, including shelter, food, clothing, and medical care.¹²¹ Another challenge for courts may be identifying the numerous forms of emotional neglect. Although learning to identify all forms may prove a cumbersome task for a legal system concerned first and foremost with a child's safety, it is arguably a task worth undertaking, for all resonate with the characteristics of a relationship between a parent with NPD and his or her children:

Partial rejection might result where, for example, parental love is present, but the parents are unable to accept some defect of the child. An active type of emotional neglect occurs when the child is emotionally exploited by being invested with a role contrary to his needs as an individual. For example, parents might use a child as a pawn or scapegoat. Passive emotional neglect exists where parents concentrate their energies in such a way as to overlook the child's needs.¹²²

Given how emotional neglect manifests in numerous ways, it seems

¹¹⁸ *What is Emotional Neglect?*, PSYCHOLOGY TODAY, <https://www.psychologytoday.com/blog/what-would-aristotle-do/201311/what-is-emotional-neglect>

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² 3 Am. Jur. 2d *Child Neglect* §8 (1974).

it can be easily overlooked without the determination to undertake the challenge of a diligent examination.

Despite the stark difference with regards to the manifestation of these two clinical definitions of emotional neglect and physical neglect, statutory definitions, while they do in fact include elements of emotional neglect, do not seem to emphasize the distinction such that emotional neglect stands out on its own. One definition for neglect that clusters the physical and emotional elements together is “when the child is physically or psychologically injured or put at risk by an intentional act of the parent.”¹²³ Another definition clearly includes both the physical and the emotional aspects yet likewise fails to draw this critical distinction: “inflicting bodily harm, sexually abusing the child, or causing mental illness, or emotional disorders in the child. Neglect is when the child is injured, harmed, or put at risk by the parent’s conduct, which may or may not be intended to harm the child”¹²⁴ Yet another definition precisely and solely illustrates emotional neglect without convoluting it with the physical elements by focusing on how the parent-child relationship deprives the child by failure of the parent to “provide opportunities for the normal experiences producing feelings of being loved, wanted, secure, and worthy, which result in the ability to form healthy object relationships.”¹²⁵ Such descriptions of emotional neglect probably do in fact facilitate the legal system’s recognition of it; however, emphasis on the distinction from physical could perhaps be amplified for purposes of improving detection of subtle emotional maltreatment.

ii. Varying Views Regarding Intervention

Like statutory definitions and understandings thereof, standards regarding whether intervention is justified vary among states.¹²⁶ The difference in opinion appears focused mainly on whether courts should center their analysis around the parent’s mental condition or the effect on the child.¹²⁷ Nonetheless, most standards seem to consider the effect on the child; the divergence between such standards seems to occur as to the precise aspect of the effect.¹²⁸ One common standard is the “seriousness” of the mental illness and whether “it’s shown that the illness has a direct

¹²³ 46 Am. Jur. 3d *Defense in Proceeding for Termination of Parental Rights on Ground of Mental Disability* §3 (1998).

¹²⁴ *Id.*

¹²⁵ Kathryn Marie Krause, *Child Abuse and Neglect Reporting Legislation in Missouri*, 42 MO. L. REV. 2 (1977) (quoting Robert Mulford, *Emotional Neglect of Children* (Am. Humane Assoc. Children’s Div. 1958)). *See also* 3 Am. Jur. 2d *Child Neglect* §8 (1974).

¹²⁶ 3 Am. Jur. 2d *Child Neglect* §18 (1974).

¹²⁷ *Id.*

¹²⁸ *Id.*

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effect on the child serious enough to justify state intervention.”¹²⁹ For example, it was held that where a mother was severely psychotic and schizophrenic, the child was “in imminent danger of becoming impaired”¹³⁰ due to the severity of the mental illness.¹³¹ Another standard for state intervention that also focuses on the effect on the child looks to whether the child’s mental and emotional health is at risk as a result of the parent’s condition.¹³² Examples of such behaviors that would fall under this category include “repeated and violent quarreling between parents, badgering of a child by the parent, and inflicting on the child a sense of rejection and insecurity.”¹³³ Despite the lack of a uniform standard for intervention due to varying viewpoints as to where to focus the analysis, it seems that examining both the parent and child is necessary. While personality disorders, especially NPD, have a profound effect on children such that the resulting maltreatment would warrant state intervention under these standards, it is not clear whether such standard would detect this less apparent form of abuse and neglect.

iii. Standards and Frameworks as Starting Points for Evaluation of Emotional Maltreatment

Despite these definitional confusions and omissions with regards to emotional maltreatment, the legal system seems to have in fact developed thorough standards for evaluating cases of neglect. Cases of neglect thus require looking to the parent’s tendencies and habits and “finding that the child lacks adequate parental care due to those faults or habits.”¹³⁴ However, just because a child’s “condition might improve” by removing the child from the parent, such does not warrant a finding of neglect; rather, what is required is a finding that the actions of the parent resulted in impairment for the child or placed him or her at risk of impairment.¹³⁵ Furthermore, making a determination of neglect requires analyzing the particular circumstances and facts of a case.¹³⁶ While evidence of a parent’s mental illness, alone, does not support a finding of neglect of a child, such evidence may be part of a neglect determination where the proof further demonstrates that the parent’s condition creates an imminent risk of physical, mental, or emotional harm to the child.¹³⁷ The

¹²⁹ *Sullivan*, 29 Ohio SLG 110-114.

¹³⁰ *Re Millar*, 40 Misc. 2d 637

¹³¹ *Id.*

¹³² 3 Am. Jur. 2d *Child Neglect* §9 (1974).

¹³³ *Sullivan*, 29 Ohio SLG 110-114

¹³⁴ 47 Am. Jur. 2d *Juvenile Courts, Etc.* § 49 (2017).

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.* See also *In re Anthony TT.*, 80 A.D.3d 901, 914 N.Y.S.2d 765 (3d Dep’t 2011).

question of neglect is always forward-looking, as it does not only look to the current impairment of the child, for a finding of neglect can also rest upon “substantial risk of such impairment.”¹³⁸ Such a thorough and fact-specific analysis seems as though it would prove beneficial applied to emotional maltreatment detection as well.

In fact, this ideal panoramic viewpoint that examines all aspects of the child’s situation seems to exist. In particular, courts have recognized the importance of looking at the parent as well as the child in cases of neglect: “in attempting to assess the causes of parental neglect, it has been stressed that the entire matrix of family relationships must be investigated. The interrelation of the parents with one another, with their child or children, and of the children with each other must be examined”¹³⁹ The reasoning for this broad view that fully takes the parent into account is the fact that the parent’s emotional situation often is a cause for neglect of a child, as

it has been recognized that a person cannot properly function as a parent when his own emotional needs have gone unmet The parent, faced with seemingly insurmountable problems may then take it out on the child in the form of neglect. For example, a parent may use his child to satisfy the parent’s own unmet needs, thereby ignoring the child’s emotional needs.¹⁴⁰

Despite this well-established recognition of emotional neglect, in practice, it seems that while courts do in fact seem to utilize this panoramic, fact-specific, emotionally-focused vantage point from which to analyze cases of neglect, in reality, much legal reasoning seems to emphasize physical wellbeing without much mention of the child’s mental health condition.

Case law reasoning illustrates the degree to which this fact specific analysis provides the court with a framework for conducting a thorough analysis of the child’s situation, but a closer analysis depicts what appears to be a tendency to essentially gloss over the child’s mental and emotional condition.¹⁴¹ Though state statutes vary regarding specific definitions and proceedings for cases of child neglect, one of the common standards throughout most state jurisdictions is the idea that there must be a causal connection between the parent’s condition and the negative impact on the child. Even in cases of severe mental disturbance on part of the parent, courts have nevertheless held that there was neither harm nor threat of harm. For example, in *In re Nialani*, a mother had been admitted to the

¹³⁸ 47 Am. Jur. 2d *Juvenile Courts, Etc.* § 49 (2017); N.C.G.S.A. §†7B–101(15). *In re J.W.*, 772 S.E.2d 249 (N.C. Ct. App. 2015).

¹³⁹ 3 Am. Jur. 2d *Child Neglect* §2 (1974).

¹⁴⁰ *Id.*

¹⁴¹ *See infra* notes 137-140 and accompanying text.

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emergency room due to bizarre behavior as a result of mental illness.¹⁴² Nonetheless, her psychiatrist testified that this was a single episode, and “that her future prognosis was ‘fair,’ given this was her first illness or episode . . . she was on the unit very briefly and responded to treatment pretty well.”¹⁴³ Rather than automatically determining that the mother’s illness indicates the presence of child neglect, the court looked to evidence to establish “by the preponderance of the evidence, the existence of a causal connection between the mother’s mental illness and actual or potential harm to the subject child.”¹⁴⁴ The court found no such evidence of improper care, instead finding evidence indicating the child had been healthy and active.¹⁴⁵

Under this fact-based standard, there is no clear way to discern how the court will evaluate particular parental mental and emotional states. In *In re Jesus M*, the New York Supreme Court, utilizing the same causal connection standard, again held there was no causal connection between a mother’s mental health conditions, including dysthymic disorder, generalized anxiety disorder, effective psychosis borderline personality disorder NOS and the child’s risk of becoming impaired as a result.¹⁴⁶ Nonetheless, the court did in fact find that the mother neglected the child, but this finding was based upon the mother’s inability to provide stable housing, rather than the mental illness.¹⁴⁷ This standard of determining the presence of a causal connection between mental condition and harm is clearly helpful in preventing courts from drawing immediate assumptions about parenting ability and risk of harm to children in determining neglect; however, it could likely allow subtle forms of neglect to go undetected. As demonstrated from this case, the court looks to all surrounding circumstances, particularly the child’s physical safety and well being to determine neglect instead of further analyzing the mother’s mental state and how it could potentially impact the child.

iv. State Statutes, Ambiguities, and Interpretative Dilemmas: New York

Like the federal CAPTA statute, state statutes do mention the emotional well being of the child as a significant factor in determining the need for intervention. For example, Family Court Act Article 10’s purpose is to

¹⁴² *In re Nialani T.*, 25 A.D.3d 672, 2015 WL 446310 (2d Dep’t 2015).

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Matter of Jesus M*, 118 A.D.3d 1436, 988 N.Y.S.2d 778 (2014).

¹⁴⁷ *Id.*

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“establish procedures to help protect children from injury or mistreatment and to help safeguard their physical, mental, and emotional well-being [and] provide due process of law for determining when the state . . . may intervene against the wishes of a parent on behalf of a child so that his needs are properly met.”¹⁴⁸

However, it mainly emphasizes the examination of external factors, specifically care for physical needs and proper guardianship.¹⁴⁹ While the Family Court Act does in fact recognize that these external factors can serve to detect impairment of a child’s mental or emotional well being, it does not instruct for evaluation of the factors that could directly uncover less apparent forms of psychological abuse and or neglect, namely the parent’s mental health, parenting style, and overall family dynamics. It seems likely that complete reliance on such a statute may perpetuate oversight of critical indicators of emotional abuse and neglect.

Courts have had to face this specific statute’s ambiguity and decipher its focus on physical rather than emotional factors. In *In Re T.*, a father verbally abused his teenaged son by harassing him about his sexuality.¹⁵⁰ The verbal abuse caused the son to cry and made his stomach ache.¹⁵¹ The court held that the fact that the son’s injury was caused by verbal rather than physical force was irrelevant, reasoning that the father’s hurtful verbal abuse “inflict[ed] physical injury which created a substantial risk of protracted impairment of emotional health.”¹⁵²

In many cases of overt abuse and psychological distress that could threaten a child’s emotional well being, courts appear to have had unambiguous and concrete evidence prior to reaching a conclusion.

¹⁴⁸ *New York State Law Family Court Law*, NEW YORK STATE LAWS, [http:// ypdcrime.com/fca/fca-article10-part1.htm](http://ypdcrime.com/fca/fca-article10-part1.htm): The statute defines neglected child as “a child less than eighteen years of age (i) whose physical, mental, or emotional condition has been impaired or is in imminent danger of being impaired as a result of the failure of his parent or other person responsible for his care to exercise a minimum degree of care (A) in supplying the child with adequate food, clothing, shelter or education in accordance with the provisions of part one of article sixty-five of the education law, or medical, dental, optometrical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or (B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child’s physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired†.†.†.

¹⁴⁹ *Id.*

¹⁵⁰ *In the Matter of Shane T., a Child Alleged to be Abused, Robert Q. and Another, Respondents*, Misc 2d 161, 453 NYS2d 59 (1982).

¹⁵¹ *Id.*

¹⁵² *Id.*

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However, obtaining the same type of concrete evidence in cases where a child is subject to this specific type of invisible abuse would most likely prove impossible in many instances. For example, in *Wilbur O. v. Christina P.*, a mother had a mental illness that caused her to have “flashback memories” of her father performing satanic ritualistic abuse. When determining abuse for purposes of the woman’s husband gaining custody over the children, the court looked to documentary and testimonial evidence that “showed that the children were under a great deal of psychological stress, clearly detrimental to their emotional well-being, due to [their mother’s] emotional state.” The court held that “the record amply supports a finding that the mental and emotional health of these children were impaired as a result of conduct by [the parent.]”¹⁵³

Recognizing how emotional maltreatment is oftentimes not easily detected, courts have determined that investigation is necessary nevertheless. Oftentimes, courts still have concrete evidence even in cases of emotional abuse, such as a child’s explicit wishes not to return to a parent. *Matter of Evelyn Q.* demonstrates how courts, under Family Court Article 10, have analyzed the need for investigation into the subtleties of emotional abuse. In this case, a child told the court psychologist that her mother treated him “bad,” resisted contact with her, and appeared distressed after visiting her.¹⁵⁴ The court explained the importance of having experts investigate matters of emotional abuse:

Where the abuse or neglect involves emotional abuse or mismanagement of a child, the only expression may be in the child’s physiological failure to grow or his psychological maladjustment. Such expressions are often totally undiscernible [sic] to the benign neighbor or relative. This does not mean, however, that they are not capable of objective demonstration by objective standards. One trained in the field of child welfare is, or should be, able to identify the problem objectively and make appropriate and reasonable conclusions and recommendations.¹⁵⁵

The court held that the child would be abused and neglected if returned to the mother.¹⁵⁶ While the court did prioritize deeper analysis of the child’s emotional well being, such reasoning was in response to overt indications of emotional maltreatment. It is less clear whether such an investigation would have occurred without the child’s explicit statement regarding the parent’s behavior.

Like New York, Colorado has also recognized the ambiguities associated with state neglect statutes, and whether or not they encompass emotional neglect as well as physical neglect. In *People v. D.A.K.*, the

¹⁵³ In the *Matter of Wilbur O., Respondent v. Christina P., Appellant*, 220 A.D.2d 842 (1995).

¹⁵⁴ *Matter of Evelyn Q.*, 100 Misc.2d 1008 (N.Y. Misc. 1979).

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

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court clearly recognized the severity of emotional abuse despite statutory ambiguities regarding what constitutes abuse. Here, it was found that a child was emotionally abused as a result of his mother's frequent fighting with her spouse and her statements regarding how she wished to put the child up for adoption.¹⁵⁷ There had been no allegations of physical abuse.¹⁵⁸ The relevant statute only defined neglected child as "one whose parent has subjected him or her to 'mistreatment or abuse.'"¹⁵⁹ Despite this statute's failure to further define abuse by specifying it as physical or emotional, the court held that the word "[abuse] must be liberally construed to carry out the declared purpose of neglect and dependency proceedings, to secure for each child subject to these provisions such care and guidance, preferably in his own home, as well as best serve his welfare in society."¹⁶⁰ The court reasoned that a narrow reading of the statute that only includes physical abuse "would frustrate the legislative purpose to protect and secure the welfare of children."¹⁶¹

III. PROPOSAL: PROTECTING CHILDREN WHILE RESPECTING PARENTAL RIGHTS AND PRIVACY

While it is clear that the legal system has recognized emotional abuse and neglect to be just as severe as the physical form, it is less clear whether it has implemented sufficient measures to detect all the ways in which it manifests, especially when well hidden by a parent with Narcissistic Personality Disorder. This note proposes a change in the current approach by embracing a more comprehensive understanding of the implications of a parent's mental health when defining abuse and neglect and prioritizing a child's well being.

As mentioned in Section I, the emotional maltreatment specific to parents with narcissistic personality is usually difficult to detect, given how these parents often appear to manifest the qualities of the ideal parent.¹⁶² Therefore, perhaps becoming aware of how parents with narcissistic personality disorder present themselves to the outside world as well as exactly how this form of psychological maltreatment manifests can make it more apparent during child abuse, neglect, as well as custody proceedings in which the child's situation at home may be less than ideal despite outward appearances.

The next step would be to begin legislative adjustments that reflect

¹⁵⁷ *People v. D.A.K.*, 198 Colo. 11, 596 P.2d 747 (1979).

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *See Supra* Section I.

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this increased effort at developing such awareness, thereby clarifying emotional maltreatment concepts. Federal legislation should provide states with more guidance for defining abuse and neglect in statutes such that the distinction between the physical and emotional components is emphasized in order to prevent apparent physical maltreatment from eclipsing emotional maltreatment. Moreover, these federal legislative adjustments could also aim to provide states with further guidance on avoiding interpretative issues through a uniform set of guidelines that fully explain the significance of separating the physical and emotional components; this explanation should highlight the implications of failure to consider each component separately. In turn, state legislation should clearly define child maltreatment. First and foremost, the statute must be immaculately clear in that it does in fact include emotional maltreatment. Secondly, the statutes should precisely define the physical and emotional forms separately in order to avoid the overshadowing effect. Lastly, these statutes could perhaps more thoroughly depict the ways in which emotional maltreatment may manifest such that courts have a more complete array of factors when evaluating whether a certain case fits within the statutory definition. A possible benefit of such statutory amendments, aside from the obvious, namely protecting a greater number of children from hidden emotional maltreatment, is that courts would not be left to debate definitions and interpretations and instead could focus valuable resources and time towards implementing techniques to detect and thereby prevent less overt forms of emotional abuse and neglect from even occurring in the first place.

Moreover, although addressing the alterations focusing on the remedial standpoint arguably serves as the centerpiece of this proposal, for current legislation and rulings provide concrete and visible demonstrations of where deficiencies may lie. Nonetheless, in addition to addressing the issue from this remedial standpoint, a prevention-focused effort aimed at developing a comprehensive awareness of parental emotional health, behavior, and its impact on children should also exist. Unlike addressing the visible statutory and interpretive issues, the construction of this prevention-focused effort will most likely require more extensive extrapolation and experimentation, for this part of the proposal entails additions rather than amendments to an existing system.

Within the court system, this could mean conducting psychiatric interviews with children liberally, even for instances during which there may be no starkly apparent motivation for suspecting that a child is experiencing maltreatment. The legal system could perhaps incorporate an evidentiary framework that is similar to the one often utilized when emotional neglect is already suspected, particularly in cases where a child has already been removed from a parent and placed in a foster home. Certain elements of this evidentiary standard, namely the part that focuses

on comparing the child's behavior and appearance before and after removal¹⁶³ from the parent would not be appropriate, as such would require removal of the child from the home. Because emotional maltreatment resulting from NPD, though potentially detrimental to a child's emotional and mental health, does not by itself place the child in physical or imminent danger, resorting to such an extreme solution would prove excessive and unnecessary in many cases. However, certain elements of this evidentiary standard could prove extremely appropriate, including a psychiatric examination of the child as well as the parent.¹⁶⁴ While even these interviews may seem excessive, given the lack of imminent and apparent harm, maintaining an eye toward the research surrounding the negative emotional implications of Narcissistic Personality Disorder suggests otherwise. Furthermore, to maintain focus on the objective of detecting this particularly inconspicuous maltreatment, interviewers should prepare a set of questions specifically aimed at detecting possible presence of the personality disorder in the parent; these questions should be designed specifically to extract information that would provide the interviewer with a thorough depiction of the child's family dynamics and thereby the degree to which the parent has and is currently succeeding in meeting the child's emotional needs.

Outside of the courtroom, it is necessary to implement initiatives to supplement the current widely accepted and implemented measures aimed at preventing child abuse. In particular, such initiatives should focus on building into the current mandatory reporting regime an approach that is sufficiently attuned to the nuances of subtle emotional maltreatment. Although the approach to reporting has recently been moving in the right direction by permitting greater subjectivity on part of the mandatory reporter,¹⁶⁵ solely relying on mandatory reporting most likely fails to prevent many instances of child maltreatment, particularly those that are less apparent and or seemingly less urgent. To remedy such oversight, schools and other institutions employing mandatory reporters could implement preventative measures aimed at raising awareness of the struggles of children of parents with NPD through education and training programs not only designed for mandatory reporters but also for children and parents. Given how both the parent affected by NPD and their family members are often unaware of the long-term impact of the personality disorder on the child's emotional health,¹⁶⁶ educational efforts for both parents and children describing the implications of the risks of family dynamics associated with NPD could prove conducive to preventing the occurrence of the resulting emotional maltreatment in the first place by

¹⁶³ 3 Am. Jur. 2d *Child Neglect* §44 (1974).

¹⁶⁴ 3 Am. Jur. 2d *Child Neglect* §§62, 64 (1974).

¹⁶⁵ See *supra* Section II.

¹⁶⁶ See *supra* Section I.

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targeting it at its very source. Additionally, families and children could benefit from efforts to reduce stigmatization of the personality disorder along with increased access to support and mental health facilities; the aim should be to repair rather than cut off the relationship, for separating parents and children in cases where there exists no imminent threat of physical harm would most likely not provide a reasonable and viable solution in the majority of cases where hidden emotional abuse exists as the sole form of child maltreatment.

Finally, there is a need for increased effort in recognizing emotional neglect and abuse despite the challenges associated with such a task; therefore, one of the first steps would be maintaining a keen awareness of the key obstacles. “Intangibility” and “elusivity” appear among the most frequently expressed concerns; since detection of emotional maltreatment in general often proves much more difficult than detecting physical maltreatment, “the community at large has not been as alert to its symptoms”¹⁶⁷ Another challenge is that the timeframe of emotional neglect is such that the child usually does not get diagnosed with emotional neglect until adolescence or adulthood, as the behavioral symptoms are usually not present until this time.¹⁶⁸ As a result, reports of emotional neglect are usually less frequent among younger children than they are in older children.¹⁶⁹ A final challenge to remain aware of relates to the societal ideal surrounding parent-child relationships. Society’s general expectation for parental responsibility often centers on tending to the child’s physical needs; therefore, we often have an easier time identifying physical neglect. As a result, people often seem “reluctant to accept legal intervention in the parent-child relationship based on emotional neglect.”¹⁷⁰ Despite these challenges associated with recognizing emotional abuse and neglect, it is the responsibility of not only the legal system but of society at large to embrace them in order to successfully develop the legislation and standards that can effectively detect emotional neglect and abuse with minimum ambiguity and maximum awareness of its subtle yet substantially harmful manifestations.

The current approach to the legal system’s understanding of child abuse and neglect and measures to resolve it does not implement sufficient tools to dig beneath the surface of family dynamics such that it may effectively detect and protect children from the invisible emotional abuse inflicted by a parent affected by NPD. Implementing the measures suggested in this Section would permit the legal system to protect children against a common form of abuse and neglect that too often

¹⁶⁷ 3 Am Jur. 2d *Child Neglect* §10 (1974).

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

escapes detection by both the child victims and well as those outside the family with the means and resources to take steps to intervene, thereby mitigating the effects of a destructive family dynamic.

IV. CONCLUSION: POSSIBLE IMPACT OF PROPOSAL

A. Custody

Current state standards for custody determinations take into consideration many external factors regarding the child's health and safety such that the need to perform a thorough investigation of a child's emotional health and risks thereto may be overlooked. Perhaps implementing this Note's proposal for child maltreatment cases could facilitate improved understanding of the need to prioritize such an investigation in the child custody context. Many jurisdictions have adopted the "Best Interests of the Child" as the standard for custody determinations.¹⁷¹ This standard allows for a flexible case-by-case determination by instructing a court to consider many factors, rather than providing a precise definition or a single presumptive factor.¹⁷² For example, New York courts, when applying the best interests standard, consider the following factors:

[W]hich parent has been the main caregiver/nurturer; the parenting skills of each parent, their strengths and weaknesses and their ability to provide for the child's special needs, if any; the mental and physical health of the parents; whether there has been domestic violence in the family; Work schedules and child care plans of each parent; the child's relationships with brothers, sisters, and members of the rest of the family; what the child wants, depending on the age of the child; each parent's ability to cooperate with the other parent and to encourage a relationship with the other parent [. . .]¹⁷³

While it is understandable that this list of factors needs to be extensive, in that it looks to factors beyond the mental health of the parents as well as their relationship to the child, it seems to run into a similar problem as the statutes mentioned in Section II; since the elements that may prove indicative of physical and emotional maltreatment are completely comingled within this list, such guidance as currently presented does not serve to convey a strong emphasis on the separate but equally severe implications of emotional and mental health

¹⁷¹ Daniel W. Shuman, *Psychiatric and Psychological Evidence* §†13.1 (2017).

¹⁷² *Id.*

¹⁷³*Custody*, NYCOURTS.GOV, <https://www.nycourts.gov/courthelp/family/custody.shtml>

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considerations. However, perhaps such statutory concerns will be minimized in the future as “[c]ourts . . . [become] more sensitive to all of the child’s interests, emotional as well as physical.”¹⁷⁴

B. Caution in Defining Remedies: Ensuring Balanced, Appropriate Outcomes

Since this Note serves to advocate a new legal perspective that takes into account an extremely harmful yet often unseen form of child maltreatment, it may initially seem that the next logical step would be to reduce the child’s contact with parent, as is usually the appropriate determination in cases of physical maltreatment. However, due to Constitutional considerations as well as considerations of a child’s psychological well being, a measure so extreme as cutting off parental contact would be unwarranted in a case solely involving emotional maltreatment. There is a very high standard for terminating parental rights: “the grounds for terminating parental rights must be established by clear and convincing evidence, and courts will strictly scrutinize petitions for termination because such action is viewed as a drastic remedy to be applied only in extreme cases.”¹⁷⁵ Moreover, it is also important to once again consider the extent of a parent’s Constitutional rights when contemplating whether to limit parent-child contact: “[p]arents have a constitutionally protected liberty interest in the companionship and society of their children. Thus, a parent has an action . . . for state action involving unlawful interference with child custody.”¹⁷⁶

Furthermore, involuntary termination would very likely prove inappropriate here, given the implications of involuntary termination; an order of involuntary termination means that the

“parent terminates all his rights and obligations with respect to the child and of all the child to him arising from the parental relationship. The parent is not thereafter entitled to notice of proceedings for the adoption of the child by another, nor has he any right to object to the adoption or otherwise participate in the proceedings.”¹⁷⁷

Moreover, this extreme remedy, which interferes with the parent-child bond, can yield negative long-term psychological outcomes for the child; therefore, it is vital to take into account the severity surrounding the implications of interfering with a parent-child bond. Unnecessarily separating parents and children will inevitably cause more harm than good for the child’s emotional health. Research demonstrates that the

¹⁷⁴ Ann M. Haralambie, *Handling Child Custody, Abuse and Adoption Cases* §1.7 (2017).

¹⁷⁵ 59 Am. Jur. 2d *Parent and Child* §16 (2017).

¹⁷⁶ 1 *Civ. Actions Against State & Loc. Gov’t* §7:34 (2017).

¹⁷⁷ 59 Am. Jur. 2d *Parent and Child* §16 (2017).

trauma associated with “prolonged severe loss of parental access . . . due to unnecessarily aggressive action by child protective services agencies” is just as severe as that resulting from child abuse.¹⁷⁸ According to recent scientific research on epigenetics, traumatic events can cause permanent alterations in a child’s brain chemistry via epigenetic alterations.¹⁷⁹ Sometimes, these epigenetic alterations are permanent, “impact[ing] the child’s psychological and physiological state for an entire lifetime.”¹⁸⁰ While the extreme remedy of involuntary termination is not the correct one, simply settling for the remedy on the opposite side of the spectrum is not the answer either. A completely hands-off approach, whereby the legal system decides against taking any action out of fear of intrusion on parental rights, would unlikely facilitate the result most beneficial for the child and the family.

Because situations involving child maltreatment very often produce a high-stakes, emotionally charged situation, it is only natural for a legal system to feel inclined to quickly and seamlessly solve the dilemma, which most likely leaves very little, if any, time and energy for confronting the numerous complexities inherent within a parent-child relationship. However, a comprehensive evaluation of the particular situation along with greater effort to detect hidden forms of emotional maltreatment, though possibly time consuming and difficult depending on the child’s family dynamics, could provide the legal system and the community at large with assurance that even the small, hidden threats with the potential to be most detrimental to a child’s well-being, have been swept out from under the rug and placed on the exam table to be weighted and evaluated, side-by-side with larger, more apparent ones.

¹⁷⁸ 2 Dan J. Tennenhouse, MD, JD, FLCM, *Attorneys Medical Deskbook* §30:8.10 (2017).

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*