

FAMILY LAW

Divorcing Millennials Turning to Parents May Affect the Attorney-Client Relationship.

BY MARIS J. WEINER, *Special to the Legal*



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Parents are becoming more and more involved in their children's marital affairs, from prenuptial agreements to divorce negotiations. Add to that many millennials emerging from divorce are moving back in with their parents. This article will explore these trends and the implications to the attorney-client relationship.

First, let's define a "millennial." Merriam-Webster's dictionary defines a "millennial" as, "of relating to, or belonging to the generation of people born in the 1980s or 1990s." Most people reading this article have at one time or another heard the term "helicopter parent." For those living under a rock, a "helicopter parent" micromanages every aspect of his child's routine and behavior - from educational toys for infants to concerned calls to teachers in adulthood—ensuring their child is on the path to success by paving that path for them. Generational demographers have described "helicopter parenting" as the parenting style of most baby boomer parents of millennial children. For those millennials coasting through life under the wings of their overinvolved parents, getting less than an A on a term paper is really hard, so it is no surprise that dealing with a divorce has really thrown these millennials for a loop.

Many matrimonial attorneys, this author included, have noticed an increase in the number of millennial parents inserting themselves into their children's divorce processes. In some cases, parents have a financial stake by paying for their child's legal fees and expenses and want to be kept apprised of case status and legal strategy. In other cases, parents get involved purely to offer support and guidance. In preparing this article, I spoke with several family law colleagues in other firms for their

perspective. One noted an increase in parental involvement in clients in their twenties, thirties and even early forties. She described a trend where parents seem to take more of a decision making role in their children's divorces and wanting to have their opinion heard, often over and above the voice of the adult child.

Why the shift? A recent article in The Atlantic titled, "Why Millennials Can't Grow Up" sheds some light on the phenomenon. According to author Annie Lowrey, millennials essentially take longer to achieve full independence. Due to the economy, staying in school longer, getting married and having children later in life, etc. millennials rely on their parents for much longer than past generations and are a "generation delayed."

So, it makes sense when a millennial does get divorced, they turn to their parents for support. Many matrimonial lawyers notice a trend in parents being solely responsible for their child's legal fees and expenses. It is not uncommon for millennial clients to move back home with their parents during a divorce, either because they feel comfortable being back in their parents' house or they have no other place to go.

Another family law attorney with whom I discussed the issue notices that much of the parental involvement in her cases with millennial age children revolves around the drafting of prenuptial agreements. In many cases, parents are encouraging, even at times insisting, that their child enter into a premarital agreement in order to protect family assets. While the insistence of a prenuptial agreement can cause tension between a bride and groom, in some circumstances parental involvement can be a "shield" of sorts, by making it clear to a future spouse that the parents

are the true source of the request. In other cases, a future spouse may be expecting the request for a prenuptial especially when there is a successful family business or significant family wealth. Parental involvement in prenuptial agreements is often motivated by a parent's concern over protecting family owned businesses, wealth, or future inheritances, that could be at risk if their child's marriage should end in divorce. Some parents take over the process completely and involve themselves right from the start, by selecting and setting up initial consultations with an attorney. It is not uncommon to receive calls from former clients whose children are about to be married and a request that a prenuptial agreement be drafted in advance of the wedding.

There are definitely advantages to having a parent involved in the prenuptial process. In some cases, parents, as opposed to their millennial child, are more familiar with family assets and have a better understanding of the family finances. More often clients are even unaware that s/he owns certain assets or is the beneficiary of certain trusts established by parents and grandparents. Since prenuptial negotiations can at times be awkward and stressful to a child and his/her future spouse, it can be at times a relief for a parent to be take on the adversarial role in negotiations. Parental involvement, or course, is not without its disadvantages; parental support can easily turn to parental control. Parents who are footing the legal expenses at times believe they can call the shots in the divorce. In situations where parents become overly involved and undermine a child's wishes, it is important for the attorney to step in and remind everyone who is ultimately the client.

Even more problematic with parental involvement, is the impact on the attorney-client privilege. In general, conversations between counsel and a client take place under protection of the attorney-client privilege, which preserves the confidentiality of the conversations. However, when a client permits a third party to be present for attorney-client conversations, this sometimes waives the privilege, meaning the third party, the client or even the attorney could be required to disclose the contents of the conversation. Having a third party included in attorney/client discussions may be an invitation to the opposing attorney to issue a subpoena as to anything discussed. While it is nice for a client to have a parent involved in the process for moral support, and often to have a second set of ears to advice, it is best practice to advise clients in advance of a meeting of the risks to negating the attorney-client privilege.

Whether it is financial or emotional support, it is without question a growing trend among millennials to have their parents either handle or be involved in their divorce. Is there value in this? Perhaps. After all, what is more important to a child than the love and support of his or her parents? Divorce can be a harrowing experience, so having the assistance and backing of the ones who raised you—especially if they themselves have been through a divorce—can provide a valuable and calming perspective. On the other hand, when parents get too deeply involved in the process and begin to dictate the terms along the way, the client fails to advocate for him or herself. Even worse, that interference undermines the trust and one-on-one communication that should be the core of every attorney/client relationship, something for which we should always strive. •