

THE DAILY RECORD Maryland Family Law Update

Maryland's courts and the opioid epidemic

By: Guest Column David Bulitt May 23, 2018



David Bulitt (Maximilian Franz/The Daily Record)

The nation's opioid epidemic has been called the worst drug crisis in our history, and it shows few signs of slowing down. In 2016, there were 42,249 deaths in the United States from opioids – more deaths than from breast cancer. In Maryland, 1,856 people died from opioids in 2016. Nationwide, more than 175 people die from these drugs every day.

According to the National Institute on Drug Abuse, opioids include heroin, morphine, synthetic opioids such as fentanyl and prescription drugs such as oxycodone and hydrocodone. Each drug, in its own way, plays a role in the epidemic that has devastated countless lives.

Nationwide, the epidemic has affected millions of families and is placing a major strain on family courts and on the foster care system. The U.S. Department of Health and Human Services reported the number of new foster care cases in which parents are drug abusers has reached the highest point in more than three decades of recordkeeping, with 92,000 children entering the foster care system in 2016 because of parents' drug use. This represented a 32 percent increase just from 2012 to 2016.

As both a family law practitioner and a parent who has a child with an opioid addiction, I have for many years had a front-row seat to the damage that drugs can do to a family. Some years ago, we would encounter opioid addiction in a divorce case only occasionally. However, as the scope of this epidemic has grown in Maryland, so has its prevalence in child custody, divorce and other family law matters.

The good news is Maryland was an early adopter of programs that work not only to enforce the law but also to coordinate teams of professionals to help families struggling with drug addiction. Drug Treatment Courts operate across the state, and Family Recovery Courts are in place in Harford, Baltimore, Charles and St. Mary's counties. Drug Treatment Court gives addicts an opportunity for treatment instead of prison. Family Recovery Court works to reunite families by helping parents who have had their children taken away. It provides parents with a support network of services for their addictions, using a collaborative and non-adversarial process to hold

people accountable through frequent random drug testing, intensive inpatient or outpatient care, evaluations and court reviews.

Both programs have been in place since about 2004 but have become even more important with the growth of the opioid crisis. The courts can impose sanctions and terminate the program if they see a recurrence of criminal activity but the focus is clearly on helping participants who are serious about turning their lives around.

By creating a collaborative group of professionals in each case, the court can monitor and guide every step of a person's recovery. Many individuals who have drug addiction issues also suffer from mental illness. These "dual diagnosis" individuals can be particularly hard to treat. The overall treatment approach is to focus on getting the patient clean and helping the person rebuild his or her life – from mental health to parenting and job skills training.

In Maryland, and in similar programs across the country, rates of success have been high, with low rates of recidivism. According to the National Association of Drug Court Professionals, nearly 75 percent of those who graduate from drug courts stay out of trouble.

Special docket

Last year, the District Court of Maryland launched a court specifically for people with opioid addictions – the Adult Opiate Recovery Court in Harford County. The court is the first special docket in the state designed specifically for people facing opioid-related criminal charges. It provides supervision and structure in the life of the addict, while helping him or her to obtain the services that are needed to overcome drug dependency. The court offers a four-phase, 12-month program with a 24-month aftercare plan.

Other states have attempted to use their family court systems creatively to try to reduce the terrible toll the opioid epidemic is taking. For example, shared parenting is an arrangement in which the children of parents living apart spend at least 35 percent of their time with each parent and as close to equal time as possible. Shared parenting has been found in many studies to increase the chances children will grow up free of drug addiction. Missouri and Kentucky recently passed laws encouraging judges to order shared parenting.

Since not all cases involving an opioid addict will be brought before specialized drug courts and family recovery courts, the National Council of Juvenile and Family Court Judges has recommended that all family court judges seek and receive training on the treatment of opioid addiction, the ramifications of opioid addiction on adoption and family reunification, and the impact of substance abuse on the adolescent brain.

In Maryland, many families every year are regaining their lives, while the cost to taxpayers is far less than that of foster care and prison. As one might imagine, I am hoping that this trend continues to expand throughout Maryland and the nation.

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