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## Kinky Parents and Child Custody: The Effect of the DSM-5 Differentiation Between the Paraphilias and Paraphilic Disorders

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The DSM-5 differentiation between the paraphilias and Paraphilic Disorders has been a decisive step forward in depathologizing consenting adults who engage in unusual sexual behaviors. Prior to February 2010, when the proposed revisions for the DSM-5 were made public, individuals who engaged in BDSM behavior were regularly misdiagnosed as having a mental disorder during criminal and civil proceedings. Some of these individuals turned for assistance to the National Coalition for Sexual Freedom (NCSF), a national advocacy organization that advances the rights of, and advocates for, consenting adults in the BDSM-leather-fetish, swing, and polyamory communities.

Under the earlier editions of the DSM, family court judges regularly removed children or restricted custody for parents if there was evidence of their BDSM activities, such as membership with an educational group or participation on an email list or website. A typical example of discrimination due to a parent's BDSM behavior was submitted to a court-appointed psychologist by a case worker with the Department of Social Services Children's Division in a Midwestern state (DSS, 2010):

With regards to [mother's] alternative lifestyle; can she separate this from her parenting? There has been some questions arise from other team members regarding her sexual sadism....[Mother] indicated she gave up this lifestyle in March. However, the blog and stories that were found were posted to her website in May. There are concerns that she is still a moderator of the [BDSM] yahoo group. I have attached pages from her website in

hopes that you can explore with [mother] her current involvement with this alternative lifestyle.

At the final permanency hearing in February 2010, the mother's lawyer submitted to the judge the proposed revisions for the DSM-5 that differentiated the paraphilias from Paraphilic Disorders, resulting in a court determination to re-evaluate her entire case. Based on the proposed DSM-5 revisions, the mother was awarded custody of three of the children, with the father retaining custody of one child in order to take advantage of his health care coverage.

The NCSF's Incident Reporting and Response Program records that 125 people contacted NCSF in 2010 regarding child custody/divorce issues (NCSF, 2010). Along with the example listed above, the revised Paraphilic Disorders criteria for the DSM-5 were successfully presented in another 12 cases. In these 13 cases, the attorneys were able to suppress the BDSM behavior as not relevant or the judge set it aside from the bench as not relevant, so that child custody could be determined on its own merits.

In 2011, 115 people contacted NCSF for help in child custody/divorce cases (NCSF, 2011). NCSF provided the revised DSM-5 criteria for 23 cases and in all of them the BDSM evidence was set aside and child custody was decided on its own merits.

By 2012, word had spread that kinky parents were having success in removing BDSM behavior as a determining factor in their child custody case if the proposed DSM-5 criteria was presented. A total of 87 people contacted NCSF for help in child custody/divorce cases (NCSF, 2012). In every child custody case—41 in all—in which NCSF provided the proposed DSM-5 criteria, the BDSM evidence was set aside and child custody was determined on its own merits.

Therefore, it is NCSF's opinion that the revised DSM-5 criteria have been successful in changing the way BDSM behavior

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by a parent is considered during a child custody hearing, thereby removing BDSM behavior as a detrimental factor in those cases. NCSF is grateful on behalf of its constituents that the American Psychiatric Association, in particular the Sexual and Gender Identity Disorders Workgroup and the Paraphilias subworkgroup, responded to the evidence of discrimination against consenting adults who engage in unusual sexual practices and revised the criteria and text in the DSM-5 to ensure that these individuals are no longer being misdiagnosed with a mental disorder and denied child custody based on that misdiagnosis.

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