

ASK JENNIFER

Attorney and Certified Family Law Specialist, Jennifer Rose, answers readers' questions about family and matrimonial law.



Dear Jennifer:

My wife has been endangering our kids through her drug abuse and neglect and her mother claims she will testify against her if we were to get divorced, should I trust her? Can a mother testify against her child and if she does how do you think the court will view it?

Concerned Dad in Gardendale

Dear Concerned:

A Mother can certainly testify against her child if she has credible testimony to give. The problem with relying on this sort of offer of testimony, however, is that her mother could certainly change her mind. I would highly suggest that if testimony is needed to support your case, that you have your attorney check into other possible resources. Obviously, the mother could be subpoenaed and forced to testify if she has information that cannot be obtained elsewhere; however, the old adage of "blood is thicker than water" can sometimes lead family members in general to back out of being involved in any way that may be detrimental to their kin.

As to how the court would view the testimony, this all depends on what actual testimony her mother can offer. Did she actually witness her daughter using drugs? Has she seen the neglect and abuse first hand? All of these key factors would need to be known for me to truly be able to answer your question; however, any credible testimony she gave would certainly be considered in addition to all the other evidence that is available on your case. Hope this helps.

Dear Jennifer:

My wife and I have been married 15 years and we have 10 year old twin girls. Our relationship with our girls is great but our relationship with each other is terrible and has been for a long time. We've tried counseling on numerous occasions but that hasn't helped and we just can't seem to ever get along. We are always screaming at each other and fighting (it often gets very physical) and we're generally just miserable with each other. We have talked about divorce a number of times but are both worried about ruining our girl's lives. In your experience how do children do after a divorce? Are we just being selfish?

Parent trap in Helena

Dear Parent Trap:

I applaud you for your concern over your children and how divorce will effect them. So many times people forget to factor in how things will affect their children. I do always advise people to seek counseling before considering divorce and I further applaud you for doing so. Sadly it sounds like the counseling hasn't been successful enough and your relationship is toxic to you and most likely to your girls as well. I don't think it's selfish if you are considering divorce, especially based on the circumstances you have described. If you do decide to stay together, the fighting has to stop as an unstable environment can actually be worse for your girls than pursuing a divorce.

As to a divorce "ruining their lives," children can and do thrive after divorce; however, for them to be able to do so will take some work on your part as well as your wife's. Here are some tips that I have to help them thrive. First, let them know the divorce isn't their fault and get them some counseling so that they have an outside party to talk to about their feelings. Second, avoid dragging them into the divorce or making them choose sides at all costs. Third, the two of you will have to put your differences aside for your children's sake and be supportive co-parents going forward. It's been proven and just plain common sense that children of divorce whose parents practice supportive co-parenting generally lead happier, more successful lives than those whose parents are adversarial. At the end of the day, only the two of you know what is best for your family. Good luck and God bless.

Jennifer G. Rose is the founder and lead attorney at The Rose Law Firm LLC. One of only a handful of certified family law specialists in the state, Jennifer and her firm have won dozens of awards for their work in the field. Those wishing to reach her may call 205-323-1124 24 hours a day or visit rosefamilylaw.com. Her firm gives complimentary initial consultations in person.



Have a family law question you'd like to have answered?

Send an email to askjennifer@theroselawfirmllc.com and you could be in our next article.