

WRITTEN TESTIMONY SUBMITTED TO THE HOUSE

JUDICIARY SUBCOMMITTEE ON FAMILY LAW

ON HOUSE BILL 1397

BY

THE PENNSYLVANIA PSYCHOLOGICAL ASSOCIATION

November 20, 2019

**Written Testimony Before the House Judiciary Committee**  
**on House Bills 1397**

Good morning, my name is Ann Marie Frakes and I am the Executive Director of the Pennsylvania Psychological Association. I first want to thank Representative Kauffman and Representative Briggs and the other members of the House Judiciary Committee for allowing the Pennsylvania Psychological Association to provide written testimony on this bill dealing with child custody. The Pennsylvania Psychological Association has an active child custody committee that cooperates with family law attorneys, judges, and other interested parties in trying to find effective alternatives to custody litigation, and ways to optimize the benefits to children when litigation cannot be avoided.

Our testimony today deals with a presumption of joint legal custody.

**Presumption of Custody**

House Bill 1397 (§5327) states that, “In any action regarding the custody of the child between the parents of the child, there shall be a presumption, rebuttable by clear and convincing evidence, that shared physical and legal custody and equal parenting time is in the best interest of the child. If a deviation from equal parenting time is warranted, the court shall order a parenting time schedule that maximizes the time each parent has with the child, to the extent consistent with the child's best interest.”

The position of the Pennsylvania Psychological Association is that there should be no presumption of any particular custody arrangement. Because of the unique characteristics of each family, a parenting arrangement needs to be made that matches of

the abilities of the parents with the developmental needs of the children to ensure the healthy growth and adjustment of the children.

It is true that data from several studies show that many children do well in shared custody arrangements, and often do better than children living in sole legal custody arrangements. However, these results should not be interpreted to mean that shared custody arrangements necessarily create better conditions for all children. Instead, research has shown that shared custody is most effective when parents communicate respectfully with each other for the welfare of their children, and when they do not expose the children to ongoing hostility, conflict or violence. Most likely it is this ability to communicate respectfully and the willingness to shield their children from conflict that gives judges the confidence to order shared custody with a particular family. We should not assume that shared custody necessarily helps make parents better parents, or that it automatically leads to better adjustment in the children. In fact, children exposed to ongoing parental conflict show poorer adjustment in many areas of their lives.

Most custody orders are reached by agreement between the parents. It is a sign of increased conflict when the parents cannot agree and must ask for the Court to make a decision. Conflict between parents puts the children in danger of psychological damage, and at risk for physical harm. A statutory presumption of custody will put many children at risk. It is important to have the Court evaluate the best interests of the child who comes before them, rather than put him or her in danger of harm because of statutory rules.

Thank you for the opportunity to present our view on this important issue. Once again, it is our position that there should be no presumption of joint legal custody.

TESTIMONY IN SUPPORT OF HB 1397  
TO THE HONORABLE MEMBERS OF THE HOUSE  
JUDICIARY SUBCOMMITTEE ON FAMILY LAW

Rep. Sheryl Delozior, Majority Chair  
Rep. Tina Davis, Minority Chair  
Rep. Jerry Knowles  
Rep. Jonathan Hershey  
Rep. Paul Schemel  
Rep. Summer Lee

June 21<sup>st</sup>, 2019

To the Honorable House Judiciary Subcommittee on Family Law:

Thank you for the opportunity to present written testimony to the Honorable Committee. My name is Christian Stahl. I am the father of six (6). Four (4) of my children are subject to a custody and support matter in Delaware County since July of 2012. I am currently a stay-at-home parent with my youngest son and have been since his birth in April of 2017.

My brief backstory is that I was a stay-at-home parent for a decade prior to divorce. My ex hired an attorney contemplating divorce seven (7) months prior to filing a divorce complaint. Despite significant assets my ex demanded I get a job to save the marriage. I complied hoping to maintain a nuclear family for the children. She then moved to take our children and my livelihood. Our marriage counselor implored us to mediate rather than litigate which she agreed to until she consulted with her attorney, current President of the Delco Bar, who directed her to litigate.

In our first custody hearing the "Master" had the audacity to tell me, after not allowing evidence and just minding opposing counsel's seemingly never-ending soliloquy, that I would never have 50/50 custody. Thus began my seven (7) year journey through the courts. I would eventually lose legal custody due to this Master for several years for no reason (I challenged this to no avail. Losing legal custody is interlocutory, not collateral and unappealable). There is no basis in law for what transpired and no remedy. I would eventually gain 50/50 physical custody after my ex had strung together



numerous alcohol abuse related incidents including a short period of incarceration for DUI highest level and EWOC. I would go on to have sole physical and shared legal custody while my ex was in in-patient rehabilitation for alcoholism and retain primary custody until another mysterious order of the court in November 2018 that reset custody to 50/50. This is subject to appeal at 504 EDA 2019.

From the onset I asked for shared 50/50 legal and physical custody. Court opinions when issued have always found me to be an involved, attendant, capable and fit parent. Yet our Custody docket at 2012-06263 is seventeen (17) pages long.

Drawing upon this experience and in pursuit of a universal remedy for this Commonwealth's children and parents I make the following comments:

### **THE PAIN ADDRESSED AND REMEDY PROPOSED BY HB 1397**

#### **PAIN –**

##### *Conflict -*

Step One currently in Custody is to create an imbalance, a conflict, something not fair to induce parties to engage the adversarial system. According to a recent study only 15% of custody outcomes in PA are 50/50. 85% of custody outcomes therefore are imbalanced and subject to extensive litigation.

##### *Custody Evaluations –*

To overcome an imbalance one might engage in a custody evaluation (\$10,000 in my case) and pay an expert to testify (\$1.5k per day in my case). To counter one might bring in a forensic expert to undermine the testimony of the expert. If successful one might engage in another custody evaluation...rinse and repeat.

##### *Counseling -*

One might be compelled to attend ongoing therapy which is essentially a professional intervention to support an unfair and imbalanced outcome in custody (\$420/mo in my case). Counselors will invariably support the current custody arrangement. They seek referrals from the court as part of doing

business and their impartiality is often suspect. The rinse and repeat scenario in Custody Evaluations above can be applied here should one side have an in with the current counselor. This back and forth alone can delay custodial outcomes for years.

#### *Attorney Bullying -*

Once the imbalance is set forth the law of the case eventually takes hold and the dominant party will seek to silence the lesser party with demeaning rhetoric in pleadings protected by judicial privilege and demands for attorney fees.

#### *Psychological Intimidation –*

The dominant party will often seek psychological examinations of the lesser party as they come at a high cost (which typically the lesser party cannot afford) and the requests themselves paint a picture supporting the dominant party as being more fit.

#### *PFA abuse –*

Where there is imbalance, dominant vs. lesser parties, there are tactics employed to shift the balance of power. This is a hot topic as the falsely accused rights are regularly expunged and the rightly accused tend to do something PFA's were intended to prevent. Unscientifically I would suggest that an imbalance, a deep seated feeling of unfairness could only exacerbate poor outcomes and a just system may tend to limit systematic abuse thereby allowing for more intense scrutiny of those who warrant it.

#### *Costs –*

*Financial costs* can easily be measured and tallied. For example in my case had my ex mediated we would have been out around \$3,000 in lieu of a tally that now exceeds \$500,000 and has completely destabilized one party financially. By far the largest cost comes in attorney fees. In our case that tally is around \$360,000. It would be far higher however if I had not familiarized myself with the law and represented myself for several years saving easily another \$200,000. The clear winner here is the attorney who billed \$210,000 to generate and maintain conflict.

*Emotional costs* are trickier. My ex wasn't always a raving alcoholic. I suspect the actions of her attorney compelling her to seek a divorce in the first place and then proceed absent a moral compass propelled her decent into alcohol dependence. She hit a police car while .272 BAC with our eldest daughter in the front seat, fortunately at low speed. As a result of the imbalance and conflict, our children spent most of four (4) years primarily with someone who was intoxicated, inconsistent and emotionally abusive. How this will impact them over time has yet to unfold. How it will impact future generations has yet to unfold.

## **REMEDY –**

### **THE RIGHT TO THE CARE, NURTURE AND COMPANIONSHIP OF ONE'S CHILDREN IS A FUNDAMENTAL ONE**

HB 1397 in essence reverberates a century of case law<sup>1</sup> supporting one's fundamental parenting rights and the rights of children to access the love and care of both fit parents. The presumption is set to equal and neutral. The strict scrutiny bar falls to the moving party to demonstrate an actual and material unfitness of a party placing the parties' children at risk.

#### *Conflict Remedy –*

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The liberty interest at issue in this case—the interest of parents in the care, custody, and control of their children— is perhaps the oldest of the fundamental liberty interests recognized by this Court. More than 75 years ago, in *Meyer v. Nebraska*, 262 U. S. 390, 399, 401 (1923), we held that the "liberty" protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "to control the education of their own."

*Troxel v. Granville*, 530 US 57, 65 - Supreme Court 2000

the right of parents to make decisions concerning the care, custody, and control of their children; that such right is a fundamental one, see *Troxel*, 530 U.S. at 65-66, 120 S.Ct. at 2060-61 (discussing cases); *Hiller*, 588 Pa. at 358, 904 A.2d at 885; and that, as such, it is protected by the Fourteenth Amendment's due-process and equal-protection guarantees. See U.S. CONST. amend. XIV, § 1 (forbidding states from depriving "any person of life, liberty, or property, without due process of law," or from denying to any person within their jurisdiction "the equal protection of the laws"). In light of these factors there is also no disagreement that, to survive a due process or equal protection challenge, Section 5325 must satisfy the constitutional standard known as strict scrutiny.

*DP v. GJP*, 146 A. 3d 204, 210 - Pa: Supreme Court 2016

HB 1397 overcomes custodial imbalance and significantly erodes potential conflict. An interesting study would be to examine if there are any scenarios where married couples, prior to divorce, claim the other spouse is unfit. For example, one might ask how many times did one spouse go out to book club leaving the children with a spouse they now claim is unfit?

#### *Custody Evaluations -*

HB 1397 sets the bar at equal and neutral. At present this court chess move is one of desperation in most cases for the lesser party. In future lesser parties will be a rarer occurrence and custody evaluations might be reserved for scenarios where actual abuse or neglect is in play.

#### *Counseling -*

HB 1397 will have a positive impact on why people engage in counselling. It will not be due to a court induced conflict or imbalance. It may in fact become founded upon support for parents and children who still are going to be managing change and may need some assistance navigating this process.

#### *Attorney Bullying –*

Conflict is at the core of the adversarial system and inherent in divorce. Attorneys pressing the boundaries of zealous advocacy will no longer find support in low hanging systematically induced conflict driven by unfair outcomes. Parties' emotionally driven lust for controversy will wane as is seen in Scandinavian countries. When these folks are asked if they ever go to court to get more custody they say no we have 50/50 custody and that is best for the children.

#### *Psychological Intimidation –*

The current incentive is to counter or cement custodial imbalance. Without the incentive it is less likely this can or will occur. There should be a lesser custody case load, there should be much shorter dockets and unless a situation truly warrants a mental health evaluation, it is unlikely one will proceed.

*PFA abuse –*

HB 1397 lets the hot air out of the balloon. Emotions tied to unfair outcomes are dissipated. The premise should now become how do we cooperate and co-parent.

*Costs –*

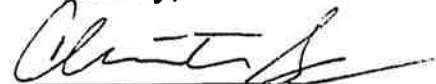
*Financial Costs* associated with litigating custody matters are essentially expunged. Parties going through a divorce or separation are already financially stressed. This ensures there will be MORE money available for the support and welfare of children.

*Emotional Costs* are mitigated rather than exacerbated by a system that engages a predictable and fair framework for custody. My ex, before her attorney told her not to speak with me, contemplated me coming to dinner some nights on her time to beneficially engage with the children. I think this may have been a much healthier scenario for all.

In conclusion, I support HB 1397 particularly the premise that 50/50 shared legal and physical custody is in the best interests of children absent documented abuse or neglect.

Thank you for allowing my commentary.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christian Stahl', with a long horizontal flourish extending to the right.

Christian Stahl



**TO:** Chairman Rob W. Kauffman, House Judiciary Committee, and Subcommittee  
Chairs Sheryl M. Delozier and Tina M. Davis, and House Judiciary Subcommittee on  
Family Law Members

**FROM:** Kathryn Robb, Esq. Executive Director, CHILD USAAdvocacy  
Danielle Pollack, MA, Family Court Reform Advocate, CHILD USAAdvocacy

**RE:** HB1397

**DATE:** December 4, 2019

First, we want to thank you, Chairman Kauffman, Chairwoman Delozier, Chairwoman Davis, and thank you, committee members, for allowing our testimony relative to HB1397 and the serious concerns about this legislation.<sup>1</sup> While at first glance this legislation presents as simply increasing parity between parents litigating custody, it in fact reduces child wellbeing and is overall not in the best interests of children, especially in situations where interpersonal family violence is present (in 75% of litigated custody cases).<sup>2</sup>

By way of introduction, we are writing on behalf of CHILD USAAdvocacy, a national organization that advocates for better evidence-based and common-sense child protection laws and policies. We are Kathryn Robb, Esq. the Executive Director of CHILD USAAdvocacy and a member of the board at Massachusetts Citizens for Children, and Danielle Pollack, MA, Family Court Reform Advocate, CHILD USAAdvocacy.

To frame the problems that HB1397 presents, you must first consider the essential goal of custody decisions – to ensure that the **best interests of the child** – not parents – are protected. This bill is contrary to common sense child protection policies and not in children's best interests. Perhaps most alarmingly, it will put countless at-risk Pennsylvania children in the way of grave harm, and possibly death. In 2000, Wisconsin adopted a 50/50 presumption model similar to that proposed in HB1397; the outcome there is that children are regularly placed in 50% custody of a parent who has been *criminally convicted* of perpetrating family violence.<sup>3</sup> **The rights of parents should never outweigh the protection and best interest of children.**

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<sup>1</sup> This bill would amend Pennsylvania custody law by creating a rebuttable, by clear and convincing standard, presumption that "equal parenting time is in the best interest of the child." See proposed Pa.C.S. § 5227(a). *Id*

<sup>2</sup> Judith G. Greenberg, *Domestic Violence and the Danger of Joint Custody Presumptions*, 25 N. ILL.U.L.REV. 403, 411 (Summer 2005).

<sup>3</sup> Teresa E. Meuer, Tony Gibart & Adrienne Roach, *Domestic Abuse: Little Impact on Child Custody and Placement*, State Bar of Wisconsin, 2019

<https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?Volume=91&Issue=11&ArticleID=26737#>



1. **Because family violence is present in most contested custody cases (75%), this legislation will negatively impact primarily those it should be designed to protect – children at risk of being subject to ongoing family violence.**<sup>4</sup>
2. Pennsylvania law is already gender neutral and already allows courts to award equal parenting time<sup>5</sup>
3. HB1397 will harm the Commonwealth's children because it is not in their best interests, but rather in adults interest
4. HB1397 seeks to erase essential distinctions in types and degrees of custody
5. HB1397 will dramatically increase the burden of proof for protective parents from preponderance to clear and convincing, leading to increased risk of harm for children

### **Pennsylvania Law Already Allows Courts to Award Equal Parenting Time and is Gender Neutral**

It is important to describe existing Pennsylvania custody law because there is considerable misinformation surrounding it. Current Pennsylvania law requires courts to use a gender-neutral model. Proponents of bills like HB1397 often mistakenly claim that custody laws discriminate against fathers. Pennsylvania law is clear that gender is irrelevant to a court's determination of what is in the best interest of a child.<sup>6</sup>

Furthermore, research shows that when fathers actively seek custody, they obtain primary or shared custody over 70% of the time. Historically (until the 1980's), courts commonly defaulted to awarding mothers custody, however, this has not been the case for several decades in family courts. On the contrary, some studies show mothers are held to a much higher standard than fathers when being assessed by courts on their fitness to parent.<sup>7</sup>

Additionally, Pennsylvania courts already have the authority to order parents to have equal parenting time with a child. Judges all over the Commonwealth, in fact, strive to and already very commonly make such orders after assessing the sixteen "best interests of the child" factors as they apply to each child on an individual basis.<sup>8</sup>

**Presumptions** in child custody law, unless they concern child safety,<sup>9</sup> are widely considered to be restrictive and contrary to determining a child's best interest.<sup>10</sup> The best interest of a nursing infant, for example, is different than that of a teenager who can drive. The best interests of a child who has never known nor lived with one parent are quite different than those of a child who has spent

<sup>4</sup> See generally, Jaffe, Zerwer & Poisson, *Access Denied: The Barriers of Violence & Poverty for Abused Women and their Children After Separation* 1 (citing four studies, all of which found 70-75% of cases in litigation involved allegations of domestic violence).

<sup>5</sup> § 5328 (b) "Gender neutral.--In making a determination under subsection (a), no party shall receive preference based upon gender in any award granted under this chapter."

<sup>6</sup> *Supra* note 5

<sup>7</sup> Gender Bias Study of the Court System in Massachusetts, 24 New Eng. L. Rev. 831-832 (1990).

<sup>8</sup> § 5328. Factors to consider when awarding custody.

<sup>9</sup> Joint Custody Presumptions and Domestic Violence Exceptions, American Bar Association (August 2014)

[https://www.americanbar.org/content/dam/aba/administrative/domestic\\_violence1/Charts/migrated\\_charts/2014\\_Joint\\_Custody\\_Chart.pdf](https://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/Charts/migrated_charts/2014_Joint_Custody_Chart.pdf)

<sup>10</sup> Judith G. Greenberg, *Domestic Violence and the Danger of Joint Custody Presumptions*, 25 N. ILL.U.L.REV. 403, 411 (Summer 2005);





considerable time with and is bonded with both parents. A child's best interests are not served by spending 50% of his or her time with a severely drug addicted parent when the other parent is fit and has historically provided nearly all the caretaking, and so on.

Only individual assessments by courts can consider all the factors unique to each child and their circumstance, which is how current law operates. HB1397 would instead impose a one size fits all model. This would be using a cudgel-like approach - asserting a presumption of exactly equal time with each parent as the preeminent determinate of a "child's best interest." This position is not empirically supported. Research shows that children's post-divorce well being is not dependent upon the frequency with which they see both parents, but rather upon: (1) the extent to which the custody agreement reflects pre-divorce caretaking and parenting time<sup>11</sup> and (2) the quality of the parenting.<sup>12</sup>

### **HB1397 Seeks to Erase Essential Distinctions in Types and Degrees of Custody**

This bill seeks to erase essential language used to distinguish among the differing degrees and types of custody in Pennsylvania, including: **"partial physical custody, primary physical custody, sole legal custody, sole physical custody, shared physical custody, supervised physical custody"** and replace them all with equal parenting as the sole standard. These nuanced distinctions define important aspects of a parent's rights and a child's well-being, and apply to everything from making medical decisions to determining residence and implementing safety measures. Not only would such erasure be contrary to a child's best interest, it would create chaos in a system reliant on such determinants.

### **This Bill Would Harm Children by Taking the Focus Away from their Best Interests**

The essential goal of custody decisions is to ensure that the best interests of the child – not the parent – are protected. The current dilemma in family courts is not that parents' rights are too limited or not shared equally enough, but rather that the rights of children – especially at-risk children – are too often minimized in the interest of what the litigating parents demand.<sup>13</sup> As it stands, **courts err too often on the side of shared, equal or near equal custody arrangements over child safety**, often resulting in ongoing child abuse or even fatality.

This was the case in Bucks County in 2018 for 7-year-old Kayden Mancuso, who was brutally murdered by her father after the court ordered unsupervised parenting time in an effort to be "fair" to both parents, despite the mother's pleas against it and the father's history of violent erratic behavior.<sup>14</sup> Research shows approximately 58,000 children in the US annually are court-ordered into

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<sup>11</sup> Anne-Rigt Poortman, *Postdivorce Parent-Child Contact and Child Well-being: The Importance of Predivorce Parental Involvement*, 80 *Journal of Family and Marriage* 671-683 (2018).

<sup>12</sup> Anja Steinbach, *Children's and Parents' Well-Being in Joint Physical Custody: A Literature Review*, *Family Process*, 2018 (measuring "benefit" by using children's self-reports of their life satisfaction and by using their feelings of depression as ascertained by responses to questions asking about loneliness, quality and amount of sleep, and frequency of moods such as happiness and sadness.).

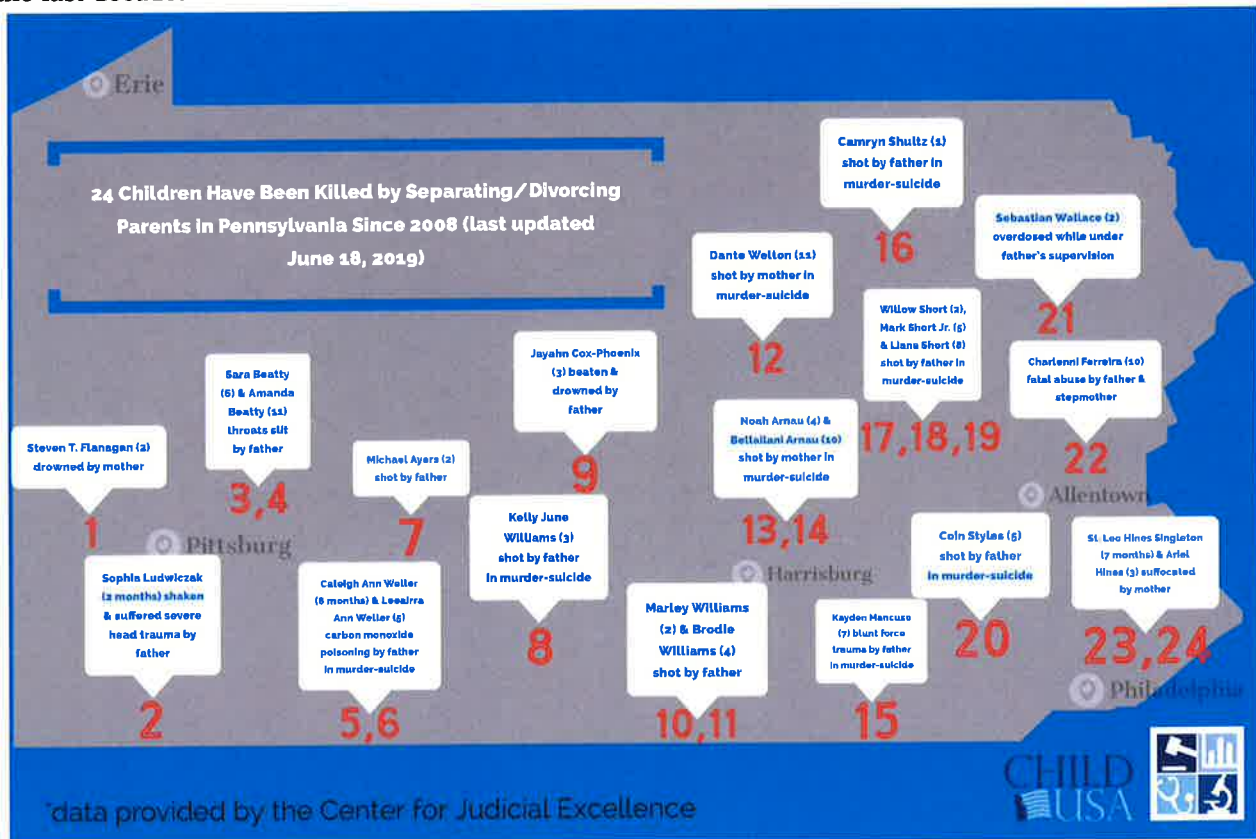
<sup>13</sup> Dickson & Meier, *Mapping Gender: Shedding Empirical Light on Family Courts' Treatment of Cases Involving Abuse and Alienation*, 35 *Law and Inequality: A Journal of Theory and Practice* 311, 313 (2017).

<sup>14</sup> The Philadelphia Inquirer news report, *Months Before Kayden Mancuso's Death, Mom Reported Girl 'Didn't Feel Safe' With Her Father* (August 7, 2018). <https://www.inquirer.com/philly/news/crime/kayden-mancuso-jeff-mancuso-murder-suicide-manayunk-girl-murder-suicide-langhorne-20180807.html>





the care of an abusing parent by our family courts;<sup>15</sup> nationally over the past decade over 700 children have been murdered by a divorcing/separating parent amidst a custody battle.<sup>16</sup> In fact, in Pennsylvania alone, at least 24 children have been murdered by a parent amidst a custody battle, in the last decade.



The rebuttable 50/50 presumption model, proposed by HB1397, would further prioritize the demands of litigating adults, rather than the needs of children. HB1397 is regressive and counter to the best interest of the children of Pennsylvania.

### **HB1397 Increases the Burden of Proof for Family Violence Survivors and Protective Parents**

Studies show that concerns for child safety and claims of child abuse brought by a safe protective parent are often minimized or overlooked in the family courts and the safe parent is sometimes punished - in the form of loss of custody/visitation time with their child - if they persist in bringing child abuse claims and seeking protection for their children. Though there are several reasons for

<sup>15</sup> The Leadership Council on Child Abuse and Interpersonal Violence, *How Many Children Are Court-Ordered Into Unsupervised Contact With an Abusive Parent After Divorce?* (September 2008).

<http://www.leadershipcouncil.org/1/med/PR3.html>

<sup>16</sup> Center for Judicial Excellence Database, *Children Killed By a Parent in the U.S. When Divorce, Separation, Custody, Visitation or Child Support Is Mentioned in News Coverage*. <https://centerforjudicialexcellence.org/cje-projects-initiatives/child-murder-data/> (last visited December 2019) and <https://docs.google.com/document/d/1jtEzeUCnloCO-q13LiRqPNLiUXJ5QG6woClpGopDaN4/edit> (map graphic June 2019)



this, chief among them is that family courts strive to award some form of shared or equal custody to both parents often above all else, even when safety risks are present.<sup>17</sup>

Child abuse and neglect occurs more frequently within the family than in any other context. We know that “80% of child fatalities due to abuse or neglect occur within the first 3 years of life and almost always at the hands of an adult responsible for their care.”<sup>18</sup> But because of the nature of family violence – often occurring behind closed doors, without outside witnesses to provide corroboration, and the fact that young children who cannot testify are frequently the only witness to crimes perpetrated against themselves (especially regarding child sexual abuse) – it is not easy to reach the necessary burden of proof to establish harm or danger and then protect children.

Safe protective parents already struggle to meet the required burden of proof in family courts, which is preponderance. HB1397 would impose an even higher and nearly impossible to reach standard – clear and convincing – for such parents to rebut the 50/50 presumption and prove their children are indeed at risk or are being harmed.

### **Family Violence is Present in the Majority of Contested Custody Cases**

The overwhelming majority of custody agreements (90%) are decided privately between parents with no court intervention or decisionmaking.<sup>19</sup> Most divorcing/separating families do not have a family violence component, however, **the majority of those who do litigate custody do involve family violence. Numerous studies show that 75% of contested custody litigants report a history of domestic violence.**<sup>20</sup> Only 10% of the total number of divorcing/separating parents litigate custody, and those are the families subject to this proposed law.

Domestic abuse is an “Adverse Childhood Experience” (ACE), and it impacts children even if children are themselves not directly physically or sexually abused by a family violence perpetrator.<sup>21</sup> We know that “children exposed to intimate partner violence (IPV) often experience a sense of terror and dread that they will lose an essential caregiver through permanent injury or death.”<sup>22</sup>

For polyvictims - children exposed to both IPV and also directly physically and/or sexually abused themselves - the outcomes are disastrous in terms of individual health over lifetime and social cost

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<sup>17</sup> Dickson & Meier, *supra* note 13. This national study found that fathers accused of abuse who counter-accused the mother of “alienation” took custody from the protective mother at a greater rate (72%) than fathers who were not accused of abuse (67%). **Being accused of child sexual abuse by the mother increased fathers’ win rate to 81%, despite the fact that fabricated child sex abuse (CSA) allegations are empirically confirmed to be very rare (2%-6%).** <sup>17</sup> (Everson & Boat, *False Allegations of Sexual Abuse by Children and Adolescents*, 28 *Journal of the American Academy of Child & Adolescent Psychiatry* 230-235 (1989)). Mothers accused of alienation lost custody in approximately half of all cases, regardless of whether or not they had accused the father of abuse.

<sup>18</sup> Report of the Attorney General’s National Task Force on Children Exposed to Domestic Violence (2012). <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

<sup>19</sup> Ollendick, White & White, *The Oxford Handbook of Clinical Child and Adolescent Psychology*, 499 (2018).

<sup>20</sup> Jaffe et al, *supra* note 4

<sup>21</sup> Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 56 *American Journal of Preventive Medicine* 774-786 (2019) (finding that people abused in childhood are more likely to develop potentially deadly conditions such as heart disease and cancer).

<sup>22</sup> Report of the Attorney General *supra* note 18



more broadly. We know this from the ACE studies of over 17,000 individuals, as well as from many other studies and sources now.<sup>23</sup>

“As many as 1 in 10 children in this country are polyvictims, according to the Department of Justice and Centers for Disease Control and Prevention’s groundbreaking National Survey of Children’s Exposure to Violence (NatSCEV). The toxic combination of exposure to intimate partner violence, physical abuse, and sexual abuse...increases the risk and severity of posttraumatic injuries and mental health disorders by at least twofold and up to as much as tenfold. Polyvictimized children are at very high risk for losing the fundamental capacities necessary for normal development, successful learning, and a productive adulthood. The financial costs of children’s exposure to violence are astronomical. The financial burden on other public systems, including child welfare, social services, law enforcement, juvenile justice, and, in particular, education, is staggering when combined with the loss of productivity over children’s lifetimes.”<sup>24</sup>

Keeping in mind that approximately three-fourths of litigated custody cases involve a family violence factor, our custody statute should seek to diminish these risks for children, rather than exacerbate them as HB 1397 would.

### **The Empirical Data vs. Ideology**

Several widely accepted views among proponents of 50/50 presumption custody bills like HB1397 do not bear out under scrutiny.

Proponents of 50/50 presumption bills like HB1397 often claim that “parental alienation syndrome” (PAS) is a valid theory, when in fact it has repeatedly flunked admissibility standards and has been discredited by nearly every reputable institution in this field, including the American Bar Association, the National Council of Juvenile and Family Court Judges, the American Psychological Association, the National District Attorney’s Association, and the American Prosecutors’ Research Institute.

The Presidential Task Force of the American Psychological Association on Violence in the Family has stated that “there are no data to support the phenomenon called parental alienation syndrome, in which mothers are blamed for interfering with their children’s attachment to their fathers . . . .” The National Council of Juvenile and Family Court Judges (NCJFCJ) likewise finds PAS lacking in scientific merit, advising judges that based on evidentiary standards, “the court should not accept testimony regarding parental alienation syndrome, or ‘PAS.’ The theory positing the existence of PAS had been discredited by the scientific community”; and “the discredited ‘diagnosis’ of ‘PAS’ (or allegation of ‘parental alienation’), quite apart from its scientific invalidity, inappropriately asks the court to assume that the children’s behaviors and attitudes toward the parent who claims to be ‘alienated’ have no grounding in reality.” The American Prosecutors’ Research Institute and the National District Attorney’s Association, legal organizations concerned with the prosecution of child abuse and domestic violence, have also dismissed PAS.<sup>25</sup>

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<sup>23</sup> Felitti, *supra* note 20

<sup>24</sup> *Supra* note 3

<sup>25</sup> Rebecca M. Thomas & James T. Richardson, *Parental Alienation Syndrome: 30 Years on and Still Junk Science*, The American Bar Association (July 1, 2015).

[https://www.americanbar.org/groups/judicial/publications/judges\\_journal/2015/summer/parental\\_alienation\\_sy](https://www.americanbar.org/groups/judicial/publications/judges_journal/2015/summer/parental_alienation_sy)





Proponents also claim that children must have both parents equally involved in their lives at all cost and above all other factors (absent a successful clear and convincing rebuttal), in order to serve the “best interest” of the child, when in fact research shows it is the *quality* of parenting which is determinative of a child’s well being not the amount of time spent. It is widely accepted and empirically supported that if both parents are fit and do not have highly anti-social behaviors, having both parents involved in children’s lives to *some* degree is beneficial to children. No controlled study, however, shows this to be so for *equal* parenting time. And importantly it is *counter* to children’s best interest live with a parent with a high degree of anti-social behavior.

Using data from an epidemiological sample of 1,116 5-year-old twin pairs and their parents, this study found that the less time fathers lived with their children, the more conduct problems their children had, *but only if the fathers engaged in low levels of antisocial behavior*. In contrast, when fathers engaged in high levels of antisocial behavior, the more time they lived with their children, the more conduct problems their children had. Behavioral genetic analyses showed that children who resided with antisocial fathers received a “double whammy” of genetic and environmental risk for conduct problems.<sup>26</sup>

For those who contend the rebuttal provision in HB1397 will provide relief in such cases, bear in mind the above cited figures demonstrating how protective parents already struggle in family courts to meet the lower standard of preponderance in order to protect children from harm. Demonstrating to a court that the other parent has a high degree of anti-social behavior is not at all synonymous with having the necessary evidence to reach a clear and convincing standard (even higher than preponderance standard) to overcome the 50/50 presumption.

We have a few questions worth your consideration:

- Shouldn’t the law in Pennsylvania seek foremost to separate children from harm and danger, regardless of the origin of that danger?
- Isn’t the safety of children of paramount importance, and an issue the court should consider based on the best interest of the child?
- Shouldn’t the interests of children come before the interest of the parents in adopting any presumption in custody law?

Child custody and parenting time should not be based on legal presumptions, but rather, what is best for the physical and emotional welfare of children. CHILD USAdvocacy strongly opposes HB1397.

In contrast, the goal of prioritizing child safety in HB 1587, sponsored by Representatives Tina Davis and Tarah Toohil, is that which CHILD USAdvocacy would fully support. In 2018 Louisiana enacted legislation very similar to what HB 1587 offers. It positions child safety as the first priority which courts must consider before considering any other best interest factors when making custody determinations. It requires an evidentiary hearing be held when credible allegations of child abuse or

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ndrome\_30\_years\_on\_and\_still\_junk\_science/

<sup>26</sup> Sara R. Jaffee, Terrie E. Moffitt, Avshalom Caspi, and Alan Taylor. *Life With (or Without) Father: The Benefits of Living With Two Biological Parents Depend on the Father’s Antisocial Behavior*. Child Development, January/February 2003, Volume 74, Number 1, Pages 109–126

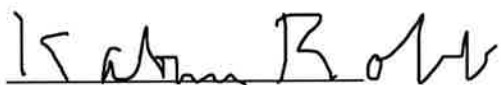


family violence are made. Pennsylvania's HB 1587, which carries the name "Kayden's Law" in memory of Kayden Mancuso who was murdered by her biological father, puts the needs and safety of children before all other considerations.

It is this simple – in making determinations about custody and parenting time, the court should consider the best interests of the child first, not the best interests of the parents. A presumption of shared 50/50 parenting is contrary to the notion that the needs and safety of children should always come first. A presumption of parents first is a dangerous standard that will ill serve and endanger countless children in Pennsylvania.

It will put the parents first – and children last. Perhaps most alarmingly, it would threaten the health and safety of thousands of at-risk children and domestic violence victims. We urge you and this committee to please put children first and reject House bill 1397 as it will clearly put the children of Pennsylvania in harm's way and not serve their best interest. Please feel free to contact us should you have any questions.

Respectfully,



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## **WHY A PRESUMPTION OF 50-50 CUSTODY IS NOT IN THE BEST INTERESTS OF CHILDREN**

### **FACT SHEET**

#### **I. 50-50 Custody Legislation Deprives Courts of Discretion**

- The essential goal of custody decisions is to ensure that the best interests of the child are protected.
- Courts do so by considering many factors, including the safety of the child, the child's relationship with each parent, and many other important factors (16 in Pennsylvania).
- Courts are already able to, and often do, grant 50-50 custody whenever they deem such an order appropriate; equal or near equal placement is already a very frequent outcome of custody disputes.<sup>1</sup>
- Only a fact-intensive inquiry can take account of each child's unique situation and create a custody order tailored to their best interests. 50-50 presumption legislation takes necessary discretion away from courts and will result in outcomes that are harmful to children and survivors of domestic violence, as indicated by a recent Wisconsin study showing that joint custody orders were common despite proven domestic violence.<sup>2</sup>

#### **II. Requiring 50-50 Custody Would Not be in the Best Interests of Children**

- Research has shown that children's post-divorce well-being is **not** dependent upon the frequency with which they see both parents, *but upon the extent to which the custody agreement reflects pre-divorce caretaking and parenting.*<sup>3</sup>

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<sup>1</sup> Meyer, Cancian & Cook, The Growth in Shared Custody in the United States: Patterns and Implications, 55 Family Court Review, 500-512 (2017) (estimating that shared custody is now the most common post-divorce parenting arrangement.)

<sup>2</sup> Meuer, Gibart & Roach, *Domestic Abuse: Little Impact on Child Custody and Placement*, 91 Wisconsin Lawyer (2018) (finding that joint custody was granted in 50% of cases where one parent had a criminal conviction for domestic violence), available at <https://www.wisbar.org/NewsPublications/InsideTrack/Pages/article.aspx?Volume=91&Issue=11&ArticleID=26737>

<sup>3</sup> Anne-Rigt Poortman, *Postdivorce Parent-Child Contact and Child Well-being: The Importance of Predivorce Parental Involvement*, 80 Journal of Family and Marriage 671-683 (2018).



- One study found that children only benefited from joint physical custody when both parents had previously, prior to the separation, been moderately or highly involved in their daily life.<sup>4</sup>
- Losing access to the support of their primary caretaker is painful and destabilizing for children; children placed in joint custody with both a more-involved and less-involved parent were found to experience more social, behavioral, and psychological problems than those whose post-divorce placement mirrored the pre-divorce caretaking.<sup>5</sup>
- Even when awarded substantial time with their children, less-involved parents tend to maintain their pre-divorce low level of involvement with children.<sup>6</sup>
- Adults who experienced divorce as children report better outcomes when exposed to **high quality parenting regardless of the custody arrangement**; they report worse outcomes when custody was shared, where one parent provided low-quality parenting.<sup>7</sup>
- One study indicates that frequent overnight visits with both parents has an adverse impact on children under the age of 5; the children studied demonstrated attachment issues and an increase in behaviors such as hitting parents, refusing to eat, and frequently worrying.<sup>8</sup>
- Experiencing high levels of parental conflict has negative outcomes for children.<sup>9</sup> 50-50 custody unavoidably places children in the middle of their parents' conflicts. The harms to children of highly conflictual parents can be mitigated when a court has discretion to look at the severity and frequency of the conflict, safety factors, and the ability of each parent to provide high quality parenting.<sup>10</sup>

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<sup>4</sup> Anja Steinbach, *Children's and Parents' Well-Being in Joint Physical Custody: A Literature Review*, Family Process, 2018, at (measuring "benefit" by using children's self-reports of their life satisfaction and by using their feelings of depression as ascertained by responses to questions asking about loneliness, quality and amount of sleep, and frequency of moods such as happiness and sadness.)

<sup>5</sup> Poortman, *supra*, *Postdivorce Parent-Child Contact and Child Well-being: The Importance of Predivorce Parental Involvement* at 672, also citing Westphal, Poortman & van der Lippe, *Non-resident Father-Child Contact across Divorce Cohorts: The Role of Father Involvement during Marriage*, 2014 (finding that fathers who were involved with their children pre-divorce were much more likely to remain involved post-divorce.)

<sup>6</sup> Poortman, *supra*.

<sup>7</sup> Steinbach, *Children's and Parents' Well-Being in Joint Physical Custody: A Literature Review*, at 8.

<sup>8</sup> *Id* (concluding from a review of empirical research that there is no "one size fits all" best custody arrangement). and Jennifer McIntosh, Bruch Smyth, Margaret Kelaher, *Overnight care patterns following parental separation: Associations with emotion regulation in infants and young children*, 19 *Journal of Family Studies*, 224-239 (2013) (finding that joint physical placement was able to predict a higher level of these poorly regulated behavior in toddlers).

<sup>9</sup> Nicole Maher et al., *Does Shared Parenting Help or Hurt Children in High-Conflict Divorced Families?*, 59 *Journal of Divorce and Remarriage*, 324-347 (2018) (concluding that high conflict divorces were associated with poor child adjustment which could be somewhat mitigated if at least one parent offered high quality parenting).

<sup>10</sup> *Id* at 339.





### III. 50-50 Custody is Particularly Damaging in Families with a History or Risk of Abuse

- The overwhelming majority of custody agreements (90%) are reached in out of court settlements. **Only 10% of parents litigate custody.**<sup>11</sup> **Numerous studies have found that 75% of contested custody litigants report a history of domestic violence.**<sup>12</sup> Domestic abuse is an “adverse childhood experience” (ACE), even if they are not themselves directly physically or sexually abused.<sup>13</sup>
- Abusive parents often use custody litigation to extend their abuse into the legal forum. Parents seeking to keep their children safe from a domestic abuser spend, on average, \$100,000 attempting to ensure safe conditions of the abuser’s access to the child.<sup>14</sup> These costs and the extreme stress of fighting an abuser in court undermine safe parents’ capacity to parent to their full potential.
- The standard of proof in civil court is preponderance of the evidence. Imposition of a “clear and convincing” proof standard to rebut a 50/50 presumption would create an extremely high burden for domestic abuse victims trying to protect children from an abusive ex-partner.
- Numerous studies indicate that family courts frequently discount or disbelieve victims’ reports of abuse.<sup>15</sup> One study of adjudicated abusers who contested custody found that the vast majority of such abusers were actually granted sole or joint custody of children.<sup>16</sup>
- **In an early court-sponsored study, 94% of fathers who petitioned for custody received sole or joint custody regardless of whether they had a history of being abusive.**<sup>17</sup> Children living in a home where they are physically or sexually abused suffer

<sup>11</sup> Ollendick, White & White, *The Oxford Handbook of Clinical Child and Adolescent Psychology*, 499 (2018).

<sup>12</sup> See generally, Jaffe, Zerwer & Poisson, *Access Denied: The Barriers of Violence & Poverty for Abused Women and their Children After Separation* 1 (citing four studies, all of which found 70-75% of cases in litigation involved allegations of domestic violence).

<sup>13</sup> E.g., Kitzmann, Gaylord, Holt & Kenny, *Child Witnesses to Domestic Violence: A Meta-Analytic Review* 71 *Journal of Consulting and Clinical Psychology* 339-352 (x) (concluding that children who witness parental violence have significantly worse social, psychological, and academic outcomes than children in non-violent homes); <https://acestoohigh.com/got-your-ace-score/>.

<sup>14</sup> Stahly, Stuebner & Krajewski, *Family Courts’ Failure to Protect Children in Custody Disputes*, data available at <https://irp-cdn.multiscreensite.com/0dab915e/files/uploaded/IVAT%20Poster%202014.pdf>.

<sup>15</sup> Dickson & Meier, *Mapping Gender: Shedding Empirical Light on Family Courts’ Treatment of Cases Involving Abuse and Alienation*, 35 *Law and Inequality: A Journal of Theory and Practice* 311, 313 (2017) (summarizing other studies).

<sup>16</sup> Rita Berg, *Parental Alienation Analysis, Domestic Violence and Gender Bias in Minnesota Courts*, *Law & Ineq.*, Winter 2011, at 5, 19-21.

<sup>17</sup> *Gender Bias Study of the Court System in Massachusetts*, 24 *New Eng. L. Rev.* 831-832 (1990). This early finding is echoed by a very recent Wisconsin study finding that 50% of even cases *with criminal*





increased Adverse Childhood Experiences (ACES), which result in costly lifelong negative health impacts for the child victims.<sup>18</sup>

- A recent study of 240 cases around the country found that fathers accused of abuse who counter-accused the mother of “alienation” took custody from the protective mother at a greater rate (72%) than fathers who were not accused of abuse (67%). **Being accused of child sexual abuse by the mother increased fathers’ win rate to 81%, despite the fact that fabricated CSA allegations are empirically confirmed to be very rare (2%-6%).**<sup>19</sup> Mothers accused of alienation lost custody in approximately half of all cases, regardless of whether or not they had accused the father of abuse.<sup>20</sup> Even when courts believed a father had been abusive to a mother or child, they still granted custody to those fathers in 14-38% of cases.<sup>21</sup> Yet even alienation specialists have acknowledged that there is no current valid scientific support for the core tenets of parental alienation theory.<sup>22</sup>
- One estimate suggests that 58,000 children annually are ordered by courts to spend visitation or custodial time with an allegedly abusive parent.<sup>23</sup>

In sum, the growing body of evidence that children are being subjected to unsafe custody/visitation arrangements by family courts indicates that a presumption of 50-50 custody is likely to be harmful to the best interests of many children.

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convictions for DV resulted in joint custody; when the perpetrator was not incarcerated, that increased to 62%. Meurer et al, *supra*. Recent national research is also consistent. Dickson & Meier, *supra*. Findings of a much larger follow-up study (showing similar results) will be released later in 2019.

<sup>18</sup> Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 56 American Journal of Preventive Medicine 774-786 (2019) (finding that people abused in childhood are more likely to develop potentially deadly conditions such as heart disease and cancer).

<sup>19</sup> Everson & Boat, *False Allegations of Sexual Abuse by Children and Adolescents*, 28 Journal of the American Academy of Child & Adolescent Psychiatry 230-235 (1989).

<sup>20</sup> Dickson & Meier, *supra*.

<sup>21</sup> *Id.* at 328.

<sup>22</sup> Saini et al, in Drozd, Saini & Olesen, *PARENTING PLAN EVALUATIONS: Applied Research for the Family Court*, 2d Ed, 374-430 (Oxford University Press.2016) (“the lack of consensus on the definitions of alienation and the use of varying non-standardized measures and procedures limit the ability of researchers to undertake methodologically sound research in this area”)

<sup>23</sup> Leadership Council on Child Abuse & Interpersonal Violence, *How Many Children are Court-Ordered into Unsupervised Contact with an Abusive Parent After Divorce?*, (2008).

BARBARA J. HART  
**JUSTICE CENTER**  
*A project of the Women's Resource Center*

June 18, 2019

House Committee on Judiciary (by email)

Representative Rob W. Kauffman, Majority Chairman  
Representative Tim Briggs, Minority Chairman  
Representative Kate A. Klunk, Majority Secretary  
Representative Melissa L. Shusterman, Minority Secretary  
Representative Tina M. Davis, Subcommittee Chair on Family Law  
Representative Jason Dawkins, Subcommittee Chair on Crime and Corrections  
Representative Sherly M. Delozier, Subcommittee Chair on Family Law  
Representative Gerald J. Mullery, Subcommittee Chair on Courts  
Representative Tedd C. Nesbit, Subcommittee Chair on Crime and Corrections  
Representative Todd Stephens, Subcommittee Chair on Courts  
Representative Ryan A. Bizzaro, Member  
Representative Matthew D. Dowling, Member  
Representative Torren C. Ecker, Member  
Representative Johnathan D. Hersey, Member  
Representative Barry J. Jozwiak, Member  
Representative Jerry Knowles, Member  
Representative Summer Lee, Member  
Representative Dan L. Miller, Member  
Representative Natalie Mihalek, Member  
Representative Christopher M. Rabb, Member  
Representative Paul Schemel, Member  
Representative Tarah Toohil, Member  
Representative Jesse Topper, Member  
Representative Justin M. Walsh, Member  
Representative Mike Zabel, Member

Dear Members of the House Judiciary Committee:

I write to respectfully request that the House Judiciary Committee oppose HB 1397.<sup>1</sup> Although “equal parenting time” presumptions are cited as being beneficial to children and fair to parents<sup>2</sup>,

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<sup>1</sup> This bill will amend Pennsylvania custody law by creating a rebuttable presumption that “equal parenting time is in the best interest of the child.” See proposed Pa.C.S. § 5227(a). Additionally, when a court deviates from equal parenting time, the court must “order a parenting time schedule that maximizes the time each parent has with the child, to the extent consistent with the child’s best interest.” *Id.*

the proposed Bill is both unnecessary given current Pennsylvania law and practice and, more pertinently, extremely dangerous for victims of intimate partner violence<sup>3</sup> (IPV) and their children. Proposed HB 1397 will have the unintended negative consequence of placing children at more risk of physical and emotional harm.

I have been the Legal Director of the Barbara J. Hart Justice Center<sup>4</sup> since 2011. I have litigated countless custody cases, am well-versed in Pennsylvania family law practice, and have expertise in representing survivors of IPV. I have also presented at numerous local, state, and national conferences on topics relevant to family law and IPV.

In my opinion, HB 1397 contravenes its intended purpose of benefiting children in contested custody cases, such as cases involving IPV. As such, the bill would be a major setback for Pennsylvania children.<sup>5</sup>

### **The Bill Would Harm, Rather than Benefit, Children in Custody Cases**

Custody cases requiring litigation are undeniably contentious. Most litigated custody cases, however, are more than “contentious” or “high conflict cases.” Litigated cases frequently involve intimate partner violence (IPV). “Recent research shows that approximately seventy five percent of the contested cases that require judicial intervention are cases in which there is a history of domestic violence.”<sup>6</sup> Any presumption involving equal parenting time, then, most directly impacts cases involving IPV. Most commentators and researchers agree, however, that

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<sup>2</sup> “Proponents of [joint physical custody] have developed an appealing theme to promote a presumption, advocating the benefits of fairness of having both parents equally engage in their children’s lives under a ‘shared parenting’ or ‘co-parenting arrangement.’” Gabrielle Davis, Kristine Lizdas, Sandra T. Murphy, & Jenna Yauch, *The Dangers of Presumptive Joint Physical Custody*, The Battered Women’s Justice Project, 2 (May 2010).

<sup>3</sup> Though intimate partner violence will be used throughout this letter the term domestic violence is commonly used in legislation and in the legal system. Intimate partner violence is when a person engages in a course of coercive and controlling behaviors such as physical and sexual violence, financial exploitation and control, psychological and emotional abuse, and the use of threats and intimidation to control one’s partner. “Battered women have been subjected to ongoing strategy of intimidation, isolation, and control that extends **all areas of the women’s life, including sexuality, material necessities, relations with family, children, friends, and work.** Sporadic, even severe, violence makes this strategy of control effective. **But the unique profile of “battered woman” arises as much from deprivation of liberty implied by coercion and control as it does from violence-induced trauma.**” Evan Stark, *Symposium on Reconceptualizing Violence Against Women by Intimate Partners: Critical Issues: Re-Representing Woman Battering: From Battered Woman Syndrome to Coercive Control*, 58 ALB. L. REV. 973, 986 (1995).

<sup>4</sup> The Barbara J. Hart Justice Center, a project of the Women’s Resource Center, is a non-profit organization which provides free civil legal representation to low-income survivors of domestic and sexual violence.

<sup>5</sup> Merle H. Weiner, Philip H. Knight Professor of Law, astutely contended that Oregon proposed SB 318, which proposed equal parenting time, was unnecessary due to existing law and that joint custody presumptions negatively impact children and victims of IPV in her written testimony for the Oregon Senate Committee on Judiciary, March 6, 2019. Oregon decided not to pass the proposed bill.

<sup>6</sup> Judith G. Greenberg, *Domestic Violence and the Danger of Joint Custody Presumptions*, 25 N. ILL.U.L.REV. 403, 411 (Summer 2005).

joint custody – however desirable it is for some families – is likely to be extremely problematic for families in which one parent is violent or otherwise abusive toward the other parent. In these instances, joint custody is likely to facilitate the continuation of the violence and abuse because it is more likely to require the parents to interact with each other about the children.<sup>7</sup>

In the context of cases involving IPV, parental equality does not exist because of the very nature of IPV. Rather, a parent who has exposed (and continues to expose) a child to his on-going abuse has already demonstrated a degree of parental unfitness and uncooperativeness. As such, an equal parenting time presumption functions to obscure IPV and the negative effect it has on children.

A. The Bill Will Elevate Equal Parenting Time Above Best Interest Factors, Including Domestic Violence<sup>8</sup>

An equal parenting time presumption “starts with the legal conclusion that JPC<sup>9</sup> is in the best interest of the child.”<sup>10</sup> Problematic with this conclusion is that it “mandates a finding that JPC is in the best interest of the child.”<sup>11</sup> Research, however, has demonstrated that shared parenting arrangements can be harmful to children, particularly where litigation is protracted, embattled in conflict, and/or IPV is present.<sup>12</sup> “The research suggest, among other things, that post-separation shared parenting arrangements can negatively impact children’s emotional and physical development, particularly where the parents are engaged in entrenched conflict.”<sup>13</sup>

In starting with a set legal conclusion, an equal parenting time presumption focuses more on the presumption than on the actual best interest and individualized needs of the child.<sup>14</sup> Under current Pennsylvania law, a court determines custody by considering the best interest of the child.<sup>15</sup> No factor that the court considers when determining custody is given more weight than any other factor unless it affects the safety of the child.<sup>16</sup> Generally speaking, then, the sixteen statutory factors that a court considers when determining the best interest of the child are evaluated equally. A presumption of equal parenting, which can only be rebutted by clear and convincing evidence, however, tips the scale favoring an outcome of shared custody.<sup>17</sup> This results in equal parenting time being given more weight than the court considering the best

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<sup>7</sup> *Id.* at 407.

<sup>8</sup> See Merle, *supra* note 5.

<sup>9</sup> JCP is “joint custody presumption” which is equivalent to “equal parenting time.”

<sup>10</sup> Davis et. al., *supra* note 2, at 6.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 8-9. See *infra* Section B and C for discussion on harmful effect exposure to IPV has on children.

<sup>13</sup> *Id.* (citing study conducted by Eleanor E. Maccoby & Robert H. Mnookin on joint custody families.)

<sup>14</sup> *Id.* at 9.

<sup>15</sup> 23 Pa.C.S. § 5329.

<sup>16</sup> *Id.* Though IPV affects the safety of a child it is often given little weight in judicial decisions unless the minor children were directly physically or sexually abused.

<sup>17</sup> Merle, *supra* note 5, at 3.

interest of the child.<sup>18</sup> This is a dangerous and harmful result, as discussed in Parts B and C, for families experiencing IPV.

In fact, unless a parent challenges the presumption, “courts do not have to think about the child at all.”<sup>19</sup> Yet, when a parent challenges the presumption to protect herself and the minor child it could actually back-fire on her.<sup>20</sup> One of the custody factors that Pennsylvania considers is which parent is likely to encourage continuing contact with the other party.<sup>21</sup> A court may infer that when a parent is challenging the presumption, she is seeking to limit contact between the parent and child:

A parent who, in good faith, seeks to challenge the JCP presumption implicitly communicates to the court a belief that frequent and continuing contact between the child and the other parent is not good for the child...Consequently, the very act of challenging the presumption can create the perception, whether real or imagined, that the challenging parent would prefer to limit, rather than encourage, contact with the other parent. That perception, in turn, can be – and often is - used against the challenging parent in the court’s best interest of the child analysis. Since a good faith challenge to the JCP presumption represents an effort to protect the child, the very act of protection can have the ironic effect of placing the child at greater risk of harm. **Consequently, the rebuttal to the JCP presumption works *worst* when the child needs it *most*.**<sup>22</sup>

## B. Effect of IPV on Children

An equal parenting presumption will have the most harmful and negative impact in families experiencing IPV. Violence against women and children’s exposure to this violence is a global epidemic.<sup>23</sup> One (1) in four (4) women in the United States experience physical violence, contact sexual violence and/or stalking by an intimate partner during their lifetime and reports some form of intimate-partner violence during her lifetime.<sup>24</sup> Studies estimate that over three (3)

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<sup>18</sup> Mele, *supra* note 5, at 3. “SB 318 requires a parent to rebut the presumption of equal parenting time by clear and convincing evidence. That formulation gives equal parenting time a thumb on the scale that no other factor...receives.” (Proposed SB 318 was an equal parenting time presumption bill which Oregon ultimately rejected). A joint custody presumption “treats every case the same, regardless of the developmental needs of the children or the level and context of parental conflict. Davis et al., *supra* note 2, at 9.

<sup>19</sup> Davis et. al., *supra* note 2, at 7.

<sup>20</sup> *Id.* at 10. The terms she/her will be used throughout this letter for victims of IPV because IPV is a gendered crime, impacting more women than men.

<sup>21</sup> 23 Pa.C.S. 4328(a)(1).

<sup>22</sup> Davis et. al. *supra* note 2, at 10-11. (emphasis added)

<sup>23</sup> The 2012 National Task Force on Children Exposed to Violence found that of the 76 million children in the United States, an estimated 46 million are exposed to violence, crime and abuse on an annual basis. Exposure to domestic violence was one of the forms of violence highlighted in the report. Report of the Attorney General’s National Task Force on Children Exposed to Violence, December 12, 2012, <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>, last visited May 19, 2019.

<sup>24</sup> *Id.* at 8. “Contact sexual violence is a combined measure that includes rape, being made to penetrate someone else, sexual coercion, and/or unwanted sexual contact” *Id.* at 7. “Intimate partner violence-related impact includes

million children are exposed to IPV each year.<sup>25</sup> Exposure to IPV includes, but is not limited to, children directly observing the violence, hearing their mother screaming for help or crying; observing the aftermath of the violence such as mother's injuries, torn clothing, broken or damaged items; hearing their father degrade, belittle and/or threaten their mother.<sup>26</sup> Additionally, approximately one-half (1/2) of children living in households with on-going abuse are also physically assaulted by their father.<sup>27</sup>

One study that interviewed 54 children and 48 abused mothers found that 85% of the children were eyewitnesses to the abuse, 52% were physically abused, 11% were sexually abused, 60% were emotionally abused, 31% experienced controlling behavior, and 58% of the children overheard the violence.<sup>28</sup> In addition 31% of the families reported that the parent who was abusive also utilized controlling behaviors against their children.<sup>29</sup> Controlling behaviors included not allowing children to play, depriving children of sleep, and holding the children hostage.<sup>30</sup>

Children exposed to domestic violence often develop post-traumatic stress disorder, resulting in above-average risk for self-destructive behaviors such as suicide, substance abuse and sexual promiscuity.<sup>31</sup> Children also "tend to show negative effects on a range of measures of mental health... and to show significantly elevated rates of behavior problems, hyperactivity, anxiety, withdrawal and learning difficulties."<sup>32</sup> They are more frequently absent from school and suspended for behavioral problems.<sup>33</sup> "Negative emotional effects from exposure to domestic violence can persist into adulthood, leading to higher rates of emotional distress and lower rates of successful social connection...and higher rate of depressive symptoms."<sup>34</sup> Additionally, children exposed to IPV are "twice as likely to have juvenile court involvement and three times

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experiencing any of the following: being fearful, concerned for safety, injury, need for medical care, needed help from law enforcement, missed at least one day of work, missed at least one day of school." *Id.* at 11. IPV is the leading cause of injury for women, even more common than car accidents, muggings and rapes combined; and an estimated forty-one percent (41%) of murdered women are killed by their intimate partner. Nancy Ver Steegh, *Children in the Law Issue: The Silent Victims: Children and Domestic Violence*, 26 WM. MITCHELL L. REV. 775, 778-779 (2000).

<sup>25</sup> Amy Haddix, *Unseen Victims: Acknowledging the Effects of Domestic Violence Through Statutory Termination of Parental Rights*, 85 CALIF. L. REV. 757, 760 (1996).

<sup>26</sup> Steegh, *supra* note 24 at 784. See also Leslie D. Johnson, *Caught in the Crossfire: Examining Legislative and Judicial Response to the Forgotten Victims of Domestic Violence*, 22 LAW & PSYCOL. REV. 271, 273-274.

<sup>27</sup> *Id.* at 779.

<sup>28</sup> Davis et. al, *supra* note 2, at 18-19. (citing, MCGEE, CHILDHOOD EXPERIENCES OF DOMESTIC VIOLENCE, 15 (2000)).

<sup>29</sup> *Id.* at 19.

<sup>30</sup> *Id.* at 19-20.

<sup>31</sup> Johnson, *supra* note 26, at 274. "Children from violent homes are more likely to run away, use drugs and alcohol, attempt suicide and exhibit assaultive behavior." Steegh, *supra* note 24, at 786.

<sup>32</sup> Lundy Bancraft, Jay Silverman, & Daniel Ritchie. *The Batterer as Parent: Addressing the Impact of Domestic on Family Dynamics*, 2<sup>nd</sup> Ed., 44, Sage Publications (2012).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 45.

likely to be in juvenile court for a violent offense.”<sup>35</sup> Female children exposed to IPV are more likely to become victims of violence while male children are more likely to become violent towards a partner.<sup>36</sup> Studies have also found that exposure to IPV results in alterations in children’s brain structure.<sup>37</sup>

### C. Post-Separation Violence and Perpetuating the Violence

The on-going nature and harmful effects of IPV is often minimized in child custody cases.<sup>38</sup> The family court system and the public all too often postulate that once parties are separated, IPV is not only no longer relevant to the case, but also no longer occurring. To the victim of partner abuse, however, coercive control and abuse does not end once she leaves the abusive relationship (she does not own the abusive relationship nor is she responsible for his abuse). Instead, she and the children are more at risk of harm when attempting to leave or recently separated.

Separation violence is defined as the time when survivors are most at risk for serious injury or death<sup>39</sup>; if the party has children the children become pawns in the abuser’s fight to retain control.<sup>40</sup> Abusers’ use the child(ren) as a means to continue their emotional, economic, and

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<sup>35</sup> *Id.*

<sup>36</sup> Johnson, *supra* note 26, at 275.

<sup>37</sup> Areti Tsavoussis, Stanislaw P.A. Stawicki, Nicole Stocicea, & Thomas Papadimos, *Frontiers in Public Health* (2014) *Child-Witnessed Domestic Violence and Adverse Effects on Brain Development: A Call for Societal Self-Examination and Awareness*, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4193214/> (last visits May 21, 2019). “The impact on the community at large is of importance and concern; the effects on child witnesses of DV extend beyond the families and children. These children have impaired learning skills, poor school performance, poor life developmental skills, and lose their ability to self-regulate. As these children age, they will have different existential memories and respond in a different manner than they would have otherwise. Consequently, society may have difficulty preserving individual safety through an inability to decrease violence, while at the same time it has to support unproductive or underproductive members of society. **Cumulatively, these findings support the presence of neuro-biological-developmental alterations in children witnessing DV, their ensuing PTSD, and the impression that cumulative childhood trauma (and not adulthood trauma) may predict the overall symptom complexity in adults.**” *Id.* (emphasis added).

<sup>38</sup> See Peter Jaffe, Nancy Lemon, & Samantha Poisson, *Child Custody & Domestic Violence: A Call for Safety and Accountability* (Sage Publications 2003)

<sup>39</sup> See, e.g., Jacquelyn C. Campbell, et. al., *Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study*, 93 AMER. J. OF PUBLIC HEALTH, (July 2003)(reporting there is a higher risk of femicide after separation); Walter DeKeserdy, McKenzie Rogness, and Martin D. Schwartz, *Separation/Divorce Sexual Assault: The Current State of Social Scientific Knowledge*, 9 AGGRESSION AND VIOLENT BEHAVIOR (2004) “Note, too, that data generated by the redesigned National Crime Victimization Survey reveal that separated women were assaulted three times more often than divorced women and close to 25 times more than married women”; “...found that compared to coresiding couples, separation entails a six-fold increase in homicide risk for women.”

<sup>40</sup> “Survivors are at increased physical violence when they take steps to leave abusers [and] ...the risk of violence, including sexual assault, is highest when victims attempt permanent separation through legal or other action.” Deborah Goelman & Darren Mitchell, *Protecting Victims of Domestic Violence Under the UCC/EA*, 61 JUV. & FAM. CT. J. 1(2010). In addition to the physical risks of separation violence, perpetrators often pursue protracted litigation as a means of controlling their former partner. Perpetrators may manipulate custody proceedings to obtain information about their former victims, to continue monitoring them, or to create opportunities for contact in order to perpetrate additional violence. *Id.*

sometimes sexual and physical abuse. In a case I litigated, for instance, the father had the minor child videotape his mother during her custodial time so father could “keep an eye on her.” Father would also follow mother when she was walking in town, cursing and berating her in front of the minor child and had a prior history of physically hitting the mother and the child.

Equal parenting time affords parents who are abusive even more access and opportunity to continue the IPV.

Indeed...the abuse becomes worse at separation. Batterers use any opportunity or contact to perpetuate the abuse in an effort to maintain their control. Some use the continuing connection that comes from joint custody or visitation rights to harass or verbally abuse their victims. Others use it as an opportunity to pressure the victim to return to the batterer. Still others continue their physical abuse during these times. For example, in one study a victim reported that during visitation the children’s father pressured her to engage in sexual relations with him. When she refused, he attacked her, choking her and stabbing her in front of their three year old son.<sup>41</sup>

Consider a case I am currently litigating. Mother obtained a protection order against her daughter’s father because he had been physically and emotionally abusive. After the parties separated, the judge insisted that the parties have equal parenting time despite the documented abuse of mother. Since shared custody was ordered, father has used the shared custody arrangement as a means to further harass and abuse mother. He, for instance, will repeatedly contact mother via text messages or telephone calls stating that he has to discuss their daughter. Once on the telephone, father will berate mother and call her offensive names. Father also constantly interrogates their daughter about her mother, asking, for instance, who is at mother’s apartment, what mother is doing, and whether mother is dating anyone. He told the child that if they go to court, he will get full custody of her (thereby taking her away from her mother with whom the child feels safe). Father’s abusive behaviors have negatively impacted the child: she is often anxious and frequently becomes hysterical if she cannot answer father’s telephone calls immediately because she fears that he will become mad (and act out) at her or her mother. Even the school has observed negative changes in the child’s behavior, specifically that she is distracted, unfocused, and inattentive. Here, even though the parties have been separated for over two years, the abuse continues having a negative impact on the minor child.

In practice, equal parenting time presumptions reinforce and perpetuate IPV placing both adult victims and children at increased risk of harm. The model proposed by **HB 1397** is “less a

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<sup>41</sup> Greenberg, *supra* note 6, at 411-412. See also Dana Harrington Conner, *Back to the Drawing Board: Barriers to Joint Decision-Making in Custody Cases Involving Intimate Partner Violence*, 18 Duke J. Gender L. & Pol’y 223, 228 (“...frequent contact among highly conflicted parents only ‘serves to sustain hostilities and predict on-going aggression.’”)



**workable parenting arrangement for battered women than a court-sanctioned means for batterers to have continued contact and control over them.”<sup>42</sup>**

#### D. Requirements for Successful “Equal Parenting Time”

Essential elements for successful shared legal custody and equal parenting time are the ability for parties to effectively “communicate, cooperate, build trust, behave appropriately toward each other, and set and respect boundaries.”<sup>43</sup> In cases involving IPV, however, these elements are not present due to the power imbalance in the relationship.

It is often not safe for a victim of domestic violence to speak freely with her abuser. The victim is silenced by the abuse and her abuser. She is not at liberty to express her opinion or make suggestions that will be reasonably considered. Joint decision-making requires joint participation – two voices, two minds, and two opinions merging to a resolution for the betterment of the child. For the batterer, however, there is only one voice, one opinion, and one correct resolution – his own.<sup>44</sup>

This disconnect between factors needed for successful shared parenting and how IPV is experienced negatively impacts children as they “undergo stress related to their exposure to the arguments and the unpredictability of the hostile decision making process” caused by the parent who is being abusive.<sup>45</sup> Research has found a strong correlation between negative child experiences and poor adult health.<sup>46</sup> “The higher the level of exposure to negative childhood experiences, the more likely the possibility of health risk factors, such as increased smoking, obesity, depressed mood, suicide attempts, alcoholism, drug use, and history of sexually transmitted disease.”<sup>47</sup>

#### **The Bill is Unnecessary Given Pennsylvania’s Current Custody Statute**

Pennsylvania law already permits judges to award shared legal custody and/or shared physical custody.<sup>48</sup> Shared legal custody is the “right of more than one individual to legal custody of the child.”<sup>49</sup> When shared legal custody is ordered parties must jointly decide on major decisions involving the child, such as where the child will attend school. If parties are incapable of

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<sup>42</sup> Davis et. al., *supra* note 2, at 13. (emphasis added)

<sup>43</sup> Conner, *supra* note 41, at 230. “A survey of family law judges suggests they believe the key to successful joint custody lies in the ‘maturity and stability of the parents, their willingness and commitment to cooperate, and their ability to communicate.’”

<sup>44</sup> *Id.* at 234.

<sup>45</sup> *Id.* at 245.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* (citing Vincent J, Fellitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14 AM. J. PREVENTATIVE MED. 249-50).

<sup>48</sup> 23 Pa.C.S. §5322(a)

<sup>49</sup> *Id.*

reaching an agreement major, then the court intervenes and decides. In my experience, judges rarely order sole legal custody *even when there is ample evidence that the parents are unable to communicate and cooperate.*

When shared custody is ordered, both parents are awarded “significant periods of physical custodial time with the child.” In practice, this often translates to equal parenting time or its close approximate. Based on over ten years experience of litigating cases and countless conversations with litigants, lawyers, and advocates, courts frequently order equal parenting time or its close approximate, *even when there is a history of past and on-going IPV that places the child at risk of harm.*

Pennsylvania law is also gender neutral: “In any action regarding custody of the child between parents of the child, there shall be no presumption that custody should be awarded to any particular parent.”<sup>50</sup> Thus, mothers are given no preference over fathers in custody actions or vice versa. Additionally, despite popular misconception that mothers are favored in custody cases, studies have found that “courts consistently held [mothers] to higher standard of proof”<sup>51</sup> than fathers, with “women often measured against the standard of ideal, while fathers are measured against a different and lower standard.”<sup>52</sup> Mothers are also “evaluated on their actual history of performance as parents and fathers evaluated on the basis of their expressions of their emotions and their stated intentions for the future.”<sup>53</sup> **When fathers actively seek custody they obtain primary or shared custody over 70% of the time.**<sup>54</sup>

Illustrative of how shared custody arrangements are already being awarded in the court system, even without a legislative presumption and to the detriment of children, is a case that my office handled. Mother and father had a young child. Mother fled from the relationship after enduring years of physical, emotional and financial abuse including father strangling her, slamming her head off the floor, attempting to rape her, and not allowing her to leave the apartment. After mother fled, father exploited the court system to further control and abuse mother and child by obtaining a temporary protection order against mother even though she had committed no offense, which included the minor child as a protected party.<sup>55</sup> The minor child was still breast

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<sup>50</sup> 23 Pa.C.S § 5327.

<sup>51</sup> Joan S. Meier, *Domestic Violence, Child Custody and Child Protection: Understanding Judicial Resistance and Imagining the Solutions*, 11 AMER. U.J. GENDER SOC. POL’Y & LAW, 657, 687 (2003).

<sup>52</sup> Gender Bias Study of the Court System in Massachusetts, 833. “The courts, as in the rest of society, expect far more from women as caretakers than as men. Any shortcomings the woman has, whether directly relating to her parenting or not, are closely scrutinized. Whereas, if a father does anything by way of caring for his children, this is an indication of his devotion and commitment.” *Id.*; “A woman’s history of motherhood is subject to intense scrutiny. A father’s history of fatherhood is only examined from the time of the petition.” *Id.*

<sup>53</sup> BANCROFT et al. *supra* note 32, at 148.

<sup>54</sup> Gender Bias Study, *supra* note 9. (emphasis added).

<sup>55</sup> Father’s false allegations against mother also resulted in her being criminally charged. All criminal charges were later dismissed against mother but she had to endure multiple court appearances, delaying any results in her family law cases, before the charges were dismissed. Unfortunately, falsely filing protection orders and criminal charges against women is a common tactic used to further abuse, harass, and control women.

feeding and had never been separated from Mother. Pending the hearing on the case, Mother was provided no visitation or contact with her nursing baby. The judge appointed a *guardian ad litem* (GAL) in the case because he “didn’t know what was happening”. In her report and recommendation to the court, the GAL opined that father was very abusive and controlling and that he had a history of abusing prior girlfriends and family members. The GAL, however, *still* recommended a shared custody arrangement. Her recommendation was based on two illogical and disturbing conclusions: 1) that the child would be taken from father and this would be confusing for the child because he had been in the care of father due to the temporary protection order (which was ultimately dismissed because he falsely filed it) and 2) it would put mother and child more at risk if father did not have shared custody. Though the judge acknowledged father had engaged in litigation abuse and was abusive, he agreed with the GAL and ordered shared custody. Here the GAL and court credited the violence as it occurred to mother, but *still* awarded equal parenting time to the detriment of mother’s and the child’s safety. Such decisions are not uncommon in family courts because the courts strive to award some form of joint custody above all else, *even despite risk factors for family violence victims*.

Any codified presumption for equal parenting time would reinforce disturbing decisions such as the one discussed above because it permits, as discussed above, courts to shift the focus from the child by “elevat[ing] the importance of equal parenting time above other relevant factors.”<sup>56</sup> In addition, the law is unnecessary because the enacted custody law and judicial interpretations of it already permit shared custody arrangements.

### **Parental Alienation Lacks Scientific Merit**

Proponents of HB 1397 cite parental alienation as the reason why Pennsylvania should adopt an equal parenting time presumption. Parental alienation, also known as parental alienation syndrome (PAS), is the theory that one parent actively seeks to alienate the child from the other parent, thus destroying the child’s relationship with that parent.<sup>57</sup>

Problematic with PAS is that it is not based in scientific evidence. In fact, PAS has been dismissed as lacking in scientific merit by the American Bar Association, the National Council of Juvenile and Family Court Judges, the American Psychological Association, the National District Attorney’s Association, and the American Prosecutors’ Research Institute.<sup>58</sup>

The National Council of Juvenile and Family Court Judges (NCJFCJ) likewise finds PAS lacking in scientific merit, advising judges that based on evidentiary standards, “the court should not accept testimony regarding parental alienation syndrome, or ‘PAS.’ The

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<sup>56</sup> Merle , *supra* note 5, at 3.

<sup>57</sup> BANCROFT et al., *supra* note 32, at 170.

<sup>58</sup> Rebecca M. Thomas & James T. Richardson, *Parental Alienation Syndrome: 30 Years on and Still Junk Science*, “The American Bar Association (July 1, 2015). [https://www.americanbar.org/groups/judicial/publications/judges\\_journal/2015/summer/parental\\_alienation\\_syndrome\\_30\\_years\\_on\\_and\\_still\\_junk\\_science/](https://www.americanbar.org/groups/judicial/publications/judges_journal/2015/summer/parental_alienation_syndrome_30_years_on_and_still_junk_science/) (last visited June 16, 2019).

theory positing the existence of PAS had been discredited by the scientific community”; and “the discredited ‘diagnosis’ of ‘PAS’ (or allegation of ‘parental alienation’), quite apart from its scientific invalidity, inappropriately asks the court to assume that the children’s behaviors and attitudes toward the parent who claims to be ‘alienated’ have no grounding in reality.”<sup>59</sup>

In custody cases, parental alienation has been used – typically by abusive fathers – “as a strategic response to allegations of domestic violence or child abuse, or to children’s refusal to go on visitation”.<sup>60</sup> Rather than having scientific merit, then, parental alienation is used “to divert the court’s attention” from evidence of abuse.<sup>61</sup>

Notably, there is no evidence that children “who are alienated from a parent **who is not their primary caretaker** are in emotional distress or are experiencing behavioral difficulties.”<sup>62</sup> Conversely, as discussed in previously, there is evidence that children are harmed from exposure to IPV. There is also evidence

[T]hat children’s chances of recovering well psychologically after experiencing abuse or witnessing violence depend largely on whether they receive a supportive and understanding response from a parent who believes them about what took place. Parental alienation theories are having the effect of punishing mothers for giving their children precisely the kinds of responses that the psychological literature would recommend.<sup>63</sup>

Given that parental alienation has been deemed “junk science” and that has been used to obscure IPV - which scientific evidence has shown harms children - the Committee should not be swayed by proponents’ position that the passage of the Bill is necessary to prevent parental alienation.

### Conclusion

At first glance a presumption for shared physical and legal custody and equal parenting time has the appeal of benefitting children, and treating parents equally, because it advocates parents being equally involved in their children’s lives. Deeper analysis of joint custody presumptions, however, reveal that presumptions for shared custody and equal parenting time negatively impact children by “blindly elevat[ing] the rights of parents – even really bad parents – over the safety and well-being of children.”<sup>64</sup>

Moreover, research has simply not supported the finding that shared custody arrangements are in the best interest of children. Notably, even where families *voluntarily* chose shared custody arrangements research demonstrates that “it does not always prove to be a stable or desirable

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<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 168.

<sup>61</sup> BANCROFT et al., *supra* note 32, at 169.

<sup>62</sup> *Id.* at 168-169.

<sup>63</sup> *Id.* at 169.

<sup>64</sup> Davis et. al., *supra* note 2, at 2.

model over time.”<sup>65</sup> [This is especially true for young children.] Research has shown that shared legal and physical custody and equal parenting time is harmful to the non-abusive parent and to their children in families experiencing IPV.

Instead of benefitting children, a codified presumption for shared custody has the unintended consequence of placing children at risk of harm and reinforcing and perpetuating IPV. I, therefore, urge the House Judiciary Committee to oppose Bill 1397.

I would be more than happy to further discuss my position with the Committee and my observations of how codified statutes impact families experiencing IPV. Thank you for your time and consideration.

Sincerely,

Judith Lewis, Esquire  
Legal Director

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<sup>65</sup> *Id.* (emphasis added) (citing study conducted by Eleanor E. Maccoby & Robert H. Mnookin on joint custody families.) Additionally, research has that families who experience little or no conflict and who are able to successfully negotiate a custody arrangement rarely opt for a shared custody or equal parenting time. *Id.*

**TESTIMONY IN SUPPORT OF EQUAL SHARED PARENTING 50/50 PROPOSED PA HB 1397**

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November 25, 2019

**To the Honorable Members of the House Judiciary subcommittee on Family Law in Pennsylvania:**

**Representative Sheryl Delozier, Majority Chair**  
**Representative Tina Davis, Minority Chair**  
**Representative Jerry Knowles**  
**Representative Jonathan Hershey**  
**Representative Paul Schemel**  
**Representative Summer Lee**

Please accept this amended testimony for the record, of proposed PA HB 1397.

Hello. My name is Laurie Nicholson. I am an alienated mother of three and the founder of Parental Alienation Awareness, PA. I am a parent and children's rights advocate. I am a constituent of Erie County, PA.

I fully support Representative Sue Helm's proposed PA HB 1397, pertaining to a presumptive 50/50 custody rebuttal, in absence of proven abuse, criminal history or domestic violence and I ask that you do the same.

I am in favor of 50/50 Equality for parents. Children have the right TO LOVE and BE LOVED by BOTH parents. ALL children matter. As each child grows into an adult and becomes a parent themselves one day, its important that SHARED CUSTODY becomes the "norm" in our society, absent of abuse, criminal record or domestic violence.

I would never want another child to be severed from a loving, fit parent, as my three children were, because a shared court order was not upheld or enforced by the Judge who wrote it. I would never want another child to experience what my three children have, as they were used as a weapon in my divorce and placed in the center of litigation. Litigation needlessly continued

for more than a decade of their lives. After 11 attorneys, a countless number of unqualified and uneducated therapists, counselors, evaluators, GAL's, parent coordinators- the list goes on and on. My children have been also alienated from their 13-year-old sister, who grew up with them and shared a very strong bond with each of them.

**"A party's effort to protect a child from abuse by another party is not evidence of unwillingness or inability to cooperate with that party."**

13<sup>th</sup> factor to consider when awarding custody in proposed PA HB 1397

That is exactly how I entered my hellacious situation of custody, by trying to protect my children from abuse. I never believed when I asked for a divorce, I would also be divorcing my own children, because the courts failed to listen to my repeated pleas for help. I left the marriage to protect myself & children from further abuse. If I had not left, I would be charged with "failing to protect" my children. You are told by the courts, "the past is in the past" or "we will go from this day forward", with complete disregard to any and all relevant past history. Evidence is rejected or denied. However, past history is just important in custody matters, as past medical history is imperative for patients. **For nearly 13 years Pennsylvania family court refused to protect my children.**

What I experienced with in the family court was an extenuation of domestic violence. The courts allowed not only myself, but my children, to suffer for over a decade of the continued abuse...(legal, financial, emotional, mental, physical) and continued medical neglect of my children. Countless court orders were never upheld or enforced, as contempt petitions were denied or dragged out 3-6 months, violations simply got a slap on the wrist or a scolding by the judge. Where is a protective parent to turn for relief? You cannot even contact local law enforcement, as they suggest, "go back and file for contempt".

Had the courts interceded and stopped the further abuse from the very beginning, I would have a loving relationship with my now, "alienated teenagers". But, no one cared to explore the truth. No one would listen. Please note, I have a perfectly healthy, thriving academically achieving 13-year-old daughter...who is also a victim, as she has lost her siblings.

**Pennsylvania is a jurisdiction that recognizes Parental Alienation. Please refer to following case:** **WCF v. MG, 115 A. 3d 323 - Pa: Superior Court 2015**

**Parental alienation** describes a process through which a child becomes estranged from a parent as the result of the psychological manipulation of another parent. The child's estrangement may manifest itself as fear, disrespect or hostility toward the parent, and may extend to additional relatives or parties. The child's estrangement is disproportionate to any

acts or conduct attributable to the alienated parent. Parental alienation can occur in any family unit, but is believed to occur most often within the context of family separation, particularly when legal proceedings are involved, although the participation of professionals such as lawyers, judges and psychologists may also contribute to conflict.

“Induced parental alienation is a specific **form of psychological child abuse**, which is listed in DSM-5, the current Diagnostic and Statistical Manual of the American Psychiatric Association (APA), under diagnostic code V 995.51 “**child psychological abuse**”. Untreated induced parental alienation can lead to long-term traumatic psychological and physical effects in the children concerned. This fact is still not given sufficient attention in family court cases”

The courts allowed my children to be dragged through a relentless court process, that to this day, has still never been remedied or resolved. The courts continued and encouraged the conflict and involved *countless untrained professionals*, that you have to pay for out of pocket, as these services are not covered by health insurance. To assist family’s experiencing this, **state mandated training on Parental Alienation is a must**.

As of the date of the upcoming hearing, Dec 9, 2019, I have not seen or spoken with my 17-year-old son, Child A, in **2078 days** or 5 years, 8 months & 8 days, or 68 months & 8 days.

I have not seen or spoken with my 18-year-old son, Child B, in **1526 days** or 4 years, 2 months & 4 days or 50 months & 4 days.

I have not seen or spoken with my 16-year-old daughter, Child C, in **1310 days**- or 3 years, 7 months & 1 day or 43 months.

Co parent was able to take one child per year, on special events or a holiday- Child A- 2014- before his 12<sup>th</sup> birthday, Child B- 2015-his first homecoming, Child C- 2016 Mother’s Day. He was able to manipulate the shared custody orders and managed to, in his words, “exercise sole custody” without ever being punished. THE FAMILY COURT DID NOTHING!

Please keep in mind, I HAVE A SHARED CUSTODY ORDER. (Attached) These children live seven minutes away, except for one, who is in college. They have shared the same school district, at times, the same school events, as their 13-year-old sister, who is a child from my current marriage. TIME CAN NEVER BE MADE UP! All important milestones have passed. All holidays and birthdays have fled by. Imagine not even being able to send any mail or packages, call, text or even email your child, as the co parent blocks all contact, despite telling the courts otherwise. The co parent actually supplied false emails to the court. Recently, I have learned the phone numbers are different, yet the co parent keeps other numbers active, *as part of the game*. Imagine finding out about emergencies such as car crashes, fires, hospitalizations or being stranded on a piece of ice on the lake, by OTHER PEOPLE, not your co parent. This is what



has been done to my family, as the courts have allowed this situation to spiral out of control. Shared 50/50 would not apply to my case or any other “alienated” parent unless there was strict accountability and punishment on the abuser, ultimately, a reversal of custody, after repeated violations of existing order(s). Implementing strict, to the letter guidelines; that once the orders are violated, I am suggesting a loss of custodial time and mandated therapy for the parent who chooses to violate that said order. This would be in the “best interest” of a child, as this continued chaos and manipulation creates unnecessarily stress and anxiety on child(ren) involved.

**Shared 50/50 would be ideal for 2 fit loving parents, absent of abuse, neglect or criminal convictions.**

I will state, I do not have so much as a parking ticket or speeding violation, though, I have been treated like a criminal. Had a criminal record or abuse history verification form been filed upon entering divorce in 2005 and again when filing for custody in 2006, according to **PA Rule 1915.3-2**, it would prove, without a doubt, I have a clean record. These filings were never completed, as far as I can see from my docket. My proof is contained in numerous plastic totes and folders which would fill a room, including a lengthy letter from ex, admitting to all he has done to myself and the children. This too, was denied in court. I have never done one thing wrong. I repeat, I do not possess a criminal record, nor have I ever been convicted of any form of abuse. I followed every single order to the “T”, but the co parent never did. I've never even spanked my children, as grounding them or “time out” worked fine- but he liked to scream and he was physical. My children were once happy, healthy children. Now, they are unrecognizable. I had to get psychological evaluations; however, I was not the one who attempted suicide or who possessed over 300 guns, nor was I in trouble for 2.2 million of insurance fraud. Their father never had to comply to the court ordered psych evaluation. The Guardian Ad Litem assigned refused, as well, to protect my children, despite all evidence I provided to her. In fact, she wrote and submitted a report that was completely biased and full of false allegations (supplied by the co parent) without ever speaking to myself, my family or the school. **Guardian ad litem Powers and Duties §6311. Guardian Ad Litem for child in court proceedings (5) Interview potential witnesses, including the child’s parents, caretakers and foster parents; examine and cross-examine witnesses; and present witnesses and evidence necessary to protect the best interests of the child.** We finally managed to have a meeting, **ONE time in the 4 years**, since she was assigned to case. Although, without ever knowing anything about me, she was making decisions that greatly affected my children’s lives, forever. At the time of the first and only meeting, she was angry that I brought my current husband, as I felt it was in my best interest, to have a witness. **Within 6 months of her assignment to my children, she requested all my children’s personal effects from my home, even our pet cat.**

I have been tortured by the legal system for protecting my children. My last hearing was on January 19, 2018. At this point, after numerous attempts to be heard, 11 attorneys and hundreds of thousands spent in the kangaroo courts, then being assigned child support in 2013, after ex claims "disability"-please note: his \$15,000 arrears were wiped clean, after I was a stay at home mother since 2000. I realized I had to exit the courts, while I still was able. **I have been denied my constitutional rights to parent my children because of perjury, fraud and deception upon the court, by my ex and "friends of the court"**. I was denied due process and got sucked down the "rabbit hole", like so many other healthy parents. Countless false allegations by the co parent, to child protective services, yet nothing was ever "FOUNDED". This as well, should have been punishable. Numerous reports to the local township, animal cruelty and police- yet he was never punished. He falsified records at school and doctors' offices. His own attorney made up horribly, untrue allegations, along with blandishments to the judge, to paint me as a deplorable parent. Co parent blatantly disregarded all orders and defiantly denied me any/all contact to OUR children. He even took the 3 children out of the country without informing me. I have never been a criminal, but I do feel criminals have more rights than I. As a criminal, the child/ parent relationships are protected, encouraged and facilitated. Even inmates have more accessibility to their children than a fit loving alienated parent with no criminal record...

\*\*\*\*" The Fourteenth Amendment to the United States Constitution provides that **"[n]o state shall ... deprive any person of life, liberty, or property, without due process of law."** U.S. Const. amend XIV, § 1. While there is no mention of family, a parent's right to child custody, or the protection of a child's welfare in this amendment or elsewhere in the Constitution, the United States Supreme Court has constitutionally protected each of these interests as a fundamental liberty under the Fourteenth Amendment"

**MY CHILDREN AND I WERE UNJUSTIFIABLY DEPRIVED OF ALL BASIC HUMAN RIGHTS BY THE PENNSYLVANIA FAMILY COURT SYSTEM.**

\*\*\*\* "Pennsylvania courts have similarly recognized that the law protects the natural parent's relationship with his or her child and will not interfere unnecessarily with that relationship, even at the expense of estrangement to the extended family. See Jackson v. Garland, 424 Pa.Super. 378, 622 A.2d 969, 971 (1993) (citing Santosky v. Kramer, 455 U.S. 745, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982) and Weber v. Weber, 362 Pa.Super. 262, 524 A.2d 498 (1987)). In fact, our General Assembly has specifically declared"

**THE PENNSYLVANIA FAMILY COURT UNNECESSARILY AND UNJUSTIFIABLY INTERFERED WITH MY RELATIONSHIP WITH MY CHILDREN.**

\*\*\*\* "[I]t is the public policy of this Commonwealth, when in the best interest of the child, to assure reasonable and continuing contact of the child with both parents after separation or dissolution of the marriage and the sharing of the rights and responsibilities of child rearing by both parents...."



## **THE PENNSYLVANIA FAMILY COURT SYSTEM UNJUSTIFIABLY DENIED ME CONTACT WITH MY CHILDREN, FAILED TO ENFORCE OR UPHOLD NUMEROUS ORDERS, CAUSING IRREPAIRABLE DAMAGE TO OUR FAMILY SYSTEM AND PARENT/CHILD RELATIONSHIP(s)**

Please refer to pages 66,67 AND 68 of the **Pennsylvania Dependency Benchbook Office of Children and Families in the Courts Administrative Office of Pennsylvania Courts**. This defines how the court system SHOULD treat parents. The courts have been neglecting parents' rights for way too long.

### **7.3 Legal Requirements Governing Visitation**

**“As long as the goal is reunification, a parent may not be denied visitation”**

**“except where a grave threat to the child can be shown”** (In the Interest of M.B., 674 A.2d 702, 705 (Pa. Super. 1996)). This standard reflects the parents’

**\*Best Practice – Visitation Practices\***

In any prehearing report, the judge should require the agency to include a specific section discussing the visitation history while in care as to each parent and the siblings, and any specific recommendations as to the immediate future. **A judge should also facilitate collaborated agency and community efforts to improve visitation practices, and encourage strategies for quality visits (PA Children’s Roundtable Initiative, 2009, p. 12) constitutionally protected liberty interest in such visitation, and also the significant consideration of allowing a parent to maintain a meaningful and sustaining relationship with his or her child (Id.) (See also In re: B.G., 774 A.2d 757 (Pa. Super. 2001); In re: C.J., 729 A.2d 89 (Pa. Super. 1999)).**

The term “grave threat” is not specifically defined in case law other than to limit visits by a parent who suffers from “severe mental or moral deficiencies” (In Interest of Rhine, 456 A.2d 608, 613 (Pa. Super. 1983)). Poor parental judgment during visits is not enough to limit a parent’s visitation, nor a contention that the parents at visits are “undercutting” the authority of foster parents, or that the caregivers complain of “acting out” by the child after the visit (In re: B.G., supra).

For the most part, the Juvenile Act does not contain any guidelines as to parent-child visitation in dependency cases. **By Administrative Regulation, the county agency is generally required to provide opportunities for visits between the child and parents “as frequently as possible, but no less frequently than once every two (2) weeks” (55 Pa. Code § 3130.68). Note that the regulation specifies only a minimum required frequency, however; courts should be reluctant to approve “cookie-cutter” minimum visitation plans that always provide for visits every two weeks, without consideration of each child/family’s unique needs. Relying solely on the administrative regulation provides parents with 52 hours per**

year or 2 ¼ days of visitation. Clearly this level of visitation is minimal at best.

THE PENNSYLVANIA FAMILY COURT SYSTEM UNJUSTIFIABLY DENIED ME VISITATION/ CONTACT WITH MY CHILDREN, FAILED TO ENFORCE OR UPHOLD NUMEROUS ORDERS, CAUSING IRREPAIRABLE DAMAGE TO OUR FAMILY SYSTEM AND PARENT/CHILD RELATIONSHIP(s). THE PENNSYLVANIA FAMILY COURT UNNECESSARILY AND UNJUSTIFIABLY INTERFERED WITH MY RELATIONSHIP WITH MY CHILDREN.

Visitation page 68

#### 7.4 Sibling Visitation

The preferred method for ensuring sibling contact is to place siblings together. When this is not possible, frequent, ongoing sibling contact and visitation is critical. Visitation with siblings can be of great value in serving the best interests of the child (PA Children's Roundtable Initiative, 2009, p. 11-12). Federal law (see the account of the "Fostering Connections to Success and Increasing Adoptions Act of 2008" in Chapter 16) recognizes the special relationship siblings may have with one another and requires states to make "reasonable efforts" in dependency cases to provide "for frequent visitation or other ongoing interaction between the siblings." An exception exists if visits or contact is contrary to a sibling's safety or wellbeing. Under the Act, the case plan should reflect efforts to keep siblings as near to each other as possible, with regular sibling face-to-face visitation once a month at a minimum, and regular phone contact as well. Clearly this is a minimum standard with ongoing sibling visitation needing to be much more frequent in many cases.

THE PENNSYLVANIA FAMILY COURT UNNECESSARILY AND UNJUSTIFIABLY IGNORED THE NEEDS OF MY YOUNGEST DAUGHTER AND UNJUSTIFIABLY DENIED CONTACT WITH AND SEVERED THE BOND SHE ONCE HAD WITH HER SIBLINGS. THIS DAMAGE CAN NEVER BE UNDONE.

#### PA Rule 1915.3-2;

(a) Criminal record or abuse history verification. A party must file and serve with the complaint, any petition for modification, any counterclaim, any petition for contempt or any count for custody in a divorce complaint or counterclaim verification regarding any criminal record or abuse history of that party and anyone living in that party's household.

According to my transcript, as far as I am aware of, the only summary on file was that requested of Erie Co. Office of Children & Youth, of agency involvement, including summary of



any Act 124 "Indicated" or "Founded" ChildLine reports. To my acknowledgement, my attorney (at the time) did not file on record, a criminal background check for myself and as far as I am aware, my co parent's attorney, at the time, did not file anything on record either.

**THE PENNSYLVANIA FAMILY COURT FAILED TO FOLLOW THE LAW.**

*Recently, when requesting a transcript of my last custody hearing, (the 1/19/18 hearing where the Judge **denied** my request to have a custody trial, **denied** my request to have an expert testimony witness, Dr. Craig Childress, and the Judge told my attorney, he was "skating on thin ice", for mentioning Parental Alienation, the Judge refused to answer my request for supervised visits, if in fact, I was such a horrible mother) I was forced to pay a transcriptionist directly, **this was in violation of 2 laws- PA Rule 4007 (C) and Local rule 4008 (B) According to the law, I was to pay County of Erie, not a contractor. As of today, my check has been returned because I noted on check- "under duress" of the PA law.***

**Rule 4007 - Requests for Transcripts**

- (A) The original transcript request shall be on a standardized form ("Transcript Request Form") provided by the Administrative Office of Pennsylvania Courts and shall be filed with the appropriate filing office for the case docket. The form is available on The Unified Judicial System's Web Portal, the website for the Erie County Court of Common Pleas or by contacting the District Court Administrator for the Erie County Court of Common Pleas. In order for the request to be processed, a copy of the request must be served on the District Court
- (B) Administrator, as well as on all other individuals designated by Pa.R.J.A. 4007. For purposes of service on the District Court Administrator, the request may be hand delivered to Room 210 of the Erie County Courthouse, e-mailed to the District Court Administrator, or mailed to: District Court Administrator, Erie County Courthouse, 140 West 6th Street, Room 210, Erie, PA 16501.
- (B) The District Court Administrator will not direct the court reporter to proceed with transcription until either (1) receipt of partial payment in the amount of one-half of the estimated cost of the transcript; or (2) receipt of an order granting permission to proceed in forma pauperis or waiving costs in accordance with Pa. R.J.A. 4008(B) **and Erie County Rule of Judicial Administration 4008(B).** The party ordering the transcript is responsible for contacting the court reporter to determine the amount of deposit required. Deposit checks shall be made payable to the County of Erie and delivered to the District Court Administrator.
- (C) Upon receipt of notification from the court reporter of the completion of the transcript and the amount of the balance owed, the party ordering the transcript shall forward to the District Court Administrator a check in the amount of the balance due. **The check shall be made payable to the County of Erie.** Upon receipt of final payment, the District Court Administrator will direct the court reporter to file and deliver the transcript in accordance with Pa.R.J.A. 4007(D)(4).

PENNSYLVANIA FAMILY COURTS are ruining families. There is no “best interest” of ANY child. There are only monetary incentives for a “Pocket Pal” system.

Family court has ruined my 4 children's lives and is ruining millions of families across the United States, including Pennsylvania. The damage has been done, as Family Court aided in the alienation process of my children and refused to follow THE LAW. Please note, I will reiterate, I have no criminal record and possess all my PA Clearances. I was a nurturing, devoted, dedicated loving mother. Our family simply became a target in this 50 billion dollar a year industry.

Our court system is broken! **There is no remedy of law, no due process, no accountability and no transparency in family court.** **Had there been 50/50 custody in the very beginning of my proceedings, with accountability of the person violating the orders, PENALTIES AND SAFEGUARDS IN PLACE, my children would not have become casualties.**

This law will bring equality in custody determinations and protect the rights of children to have BOTH FIT and LOVING PARENTS involved in their lives, following a separation or divorce. The passing of this bill greatly benefits any Pennsylvania child, as studies have shown **SHARED PARENTING** increases academic achievement, improves emotional health (lowers the rates of anxiety & depression, increases self-esteem & overall life satisfaction), reduces the rate of behavioral problems, such as delinquency, school misbehavior, bullying, drugs, alcohol, smoking and promiscuity-A child also benefits with improved physical health and decreased stress-related illnesses. The passing of this bill will significantly lower the incidence rate of Parental Alienation.

\*\*\*Children need BOTH PARENTS in their lives, if there is no history of or presence of abuse or a criminal background. THIS LAW PROVIDES THAT PROTECTION with 16 revised custodial factors.

PLEASE SUPPORT THE EQUAL SHARED PARENTING BILL 1397.

FIX THE FAMILY COURTS for the sake of ALL our children.

Respectfully submitted and testified,

*Laurie Lee Nicholson*

Laurie Nicholson

Parental Alienation Awareness, PA

BECAUSE PICTURES DO NOT LIE.... OUR ONCE, INTACT FAMILY-



CHILD A- TOP LEFT

CHILD B- BOTTOM LEFT

CHILD C-MIDDLE RIGHT

YOUNGEST SISTER MIDDLE LEFT





CHILD B- TOP  
CHILD C-LEFT  
YOUNGEST SISTER-RIGHT





CHILD A-TOP RIGHT  
CHILD B-BOTTOM RIGHT  
CHILD C-BOTTOM LEFT  
YOUNGEST SISTER- MIDDLE RIGHT



ALL ALIENATED FROM ½ OF THEIR FAMILY

LAURIE L. SCHAUER,  
Plaintiff  
V.

WADE A. SCHAUER,  
Defendant

: IN THE COURT OF COMMON PLEAS  
: OF ERIE COUNTY, PENNSYLVANIA  
:  
:  
:  
: NO. 13215 - 2005

**ORDER OF COURT**

AND NOW, to-wit, this 25 day of April 2013, it is hereby ORDERED,

ADJUDGED, and DECREED:

1. The parents shall share the legal and physical custody of their children. The names and birth dates of their children are as follows:

Mitchell Schauer, born February 26, 2001

Travis Schauer, born May 1, 2002

Hope Schauer, born October 20, 2003

2. The children shall reside with their father except that the mother shall have partial custody with their children as follows:

a.) School year:

Week 1: In week one, the children shall be with their mother on Tuesday from 4:15 pm until 8:00 pm; on Fridays beginning at 4:15 pm (noon if there is no school) until Monday morning when the children return to school (5:00 pm if there is no school).

Week 2: The children shall be with their mother on Tuesday at 4:15 pm until Wednesday morning when the children return to school (5:00 pm if there is no school).

b.) Summer:

Week 1: The children shall be with their mother on Tuesday from 9:00 am until Wednesday at 9:00 pm; and on Friday from 9:00 am until Monday at 10:00 am.

Week 2: The children shall be with their mother on Tuesday from 9:00 am until Thursday at 10:00 am. Thereafter, this cycle shall repeat.

c.) Each parent is entitled to two (2) seven (7) day periods of uninterrupted custody time upon thirty (30) days written notice to each other.

d.) The non-festive holidays, the children shall be with father on Memorial and Labor Day. The children shall be with the mother on July Fourth. The hours shall be from 10:00 am until 6:00 pm unless mutually agreed to do otherwise.

e.) In 2014 and even years, the children shall be with their mother for the Easter holiday. In 2015 and odd years, this schedule shall alternate.

f.) In 2013 and odd years, the children shall be with their mother for the Thanksgiving holiday. In 2014 and even years, this schedule shall alternate.

g.) In 2013 and odd years, the children shall be with their mother on December 24<sup>th</sup> from 12:00 noon until December 25<sup>th</sup> at 12:00 noon and with the father on December 25<sup>th</sup> from 12:00 noon until December 26<sup>th</sup> at 12:00 noon. In 2014 and even years, this schedule shall alternate.

h.) The parties shall refrain from discussions having to do with the conflict, or disagreements between them in the presence of the children. Neither parent shall engage in any conduct that presents to the children a negative or hostile view of the other.

i.) Medical needs and concerns of the children shall be governed by a separate Medical Protocol Order.

j.) There shall be no corporal punishment.

k.) The parents shall administer medication as prescribed by the physician.

l.) There shall be adult supervision at all times.

m.) The parent receiving custody shall provide transportation. The driver shall stay in the vehicle. The relinquishing parent shall stay in his or her residence, unless there is a need to exchange, or transfer medications consistent with the Medical Protocol Order.


n.) The parents shall insure all homework assignments are completed and delivered to school when due.

o.) Each party shall be responsible for taking the children to their scheduled activities when the children are in that party's custody or care.

**3. ALL HOLIDAY SCHEDULES SHALL SUPERSEDE ANY OTHER PARTIAL CUSTODY OR VISITATION SCHEDULE UNLESS MUTUALLY AGREED TO DO OTHERWISE.**

4. The children shall be with their mother on Mother's Day and with their father on Father's Day. The hours shall be from 10:00 am until 6:00 pm unless mutually agreed to do otherwise.

5. Each parent shall plan a birthday celebration for their children on one of their regularly scheduled partial custody days near the children's birthday.

 6. Each parent shall keep the other informed of their children's health, progress in school and general welfare and shall consult the other parent concerning major decisions affecting their children.

7. Each parent is entitled to receive directly from schools, health care providers, or other relevant sources, information concerning their children.

8. Neither parent shall engage in any conduct that presents to their children a negative, or hostile view of the other.

9. Each parent shall encourage their children to comply with the custody

arrangement and foster in their children a positive view of the other.

10. This custody arrangement may be modified by an agreement of the parties when required for the best interest of the children. The term "mutual agreement" contemplates good faith discussions by both parents to reach an agreement as to specific dates and times of partial custody or visitation, and the unilateral determination of one parent to deny contact shall be viewed as a violation of this provision.

11. If not already done the parties agree, as a condition of this Consent Order, to attend the "Children Cope With Divorce" seminar.

12. Jurisdiction of the aforementioned children and this matter shall remain in the Court of Common Pleas of Erie County, Pennsylvania unless and until jurisdiction would change under the Uniform Child Custody Jurisdiction and Enforcement Act 23 Pa. C.S.A. 5401 et seq.

13. RELOCATION NOTICE. No party with custody rights to a child may relocate with the child prior to agreement of all parties with custody rights to the child, or prior approval of court. Relocation is defined as changing residence of the child which significantly impairs the ability of the non relocating party to exercise custodial rights. A party proposing relocation must comply with all provisions of 23 Pa. C.S. Section 5337 before relocating with the child. A sample relocation notice and counter-affidavit are available at [www.eriecountygov.org/custody](http://www.eriecountygov.org/custody).

14.) VIOLATION OF THIS ORDER BY ANY PERSON MAY RESULT IN  
CIVIL AND CRIMINAL PENALTIES, INCLUDING PROSECUTION PURSUANT TO  
SECTION 2904 OF THE PENNSYLVANIA CRIMES CODE, INTERFERENCE WITH  
THE CUSTODY OF CHILDREN.

BY THE COURT:



Elizabeth K. Kelly, Judge

CERTIFIED COPY

*Kelly Spunk*  
PROCL. CLERK

113 APR 30 PM 3:30  
PROCLERK



# Richard Ducote

Attorney & Counselor at Law

4800 Liberty Avenue, 2<sup>nd</sup> Floor

Pittsburgh, PA 15224

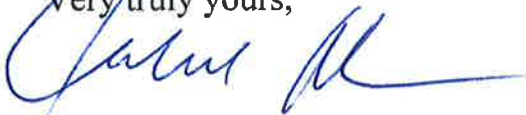
(412) 687-2020 (412) 687-2009 Fax

[rducote@ducotelaw.com](mailto:rducote@ducotelaw.com)

## TESTIMONY IN OPPOSITION TO HB 1397

I am honored to offer my testimony before the House Judiciary Committee. I strongly oppose HB 1397. I have been an attorney for 41 years, have been licensed in Pennsylvania (Pa. ID # 307,954) since 2009, and have focused my practice on difficult child custody cases. I have handled such cases in Pennsylvania and in 46 other states. In 2011, I received an LL.M. (advanced law degree) in Child & Family Law from Loyola University Chicago School of Law. Furthermore, I have trained nationwide for many years judges, mental health professionals, and lawyers on the problems inherent in child custody cases, and have published scholarly articles on due process violations and the improper delegation of judicial authority to others in these cases. My advice has been sought on these issues in taskforces convened by the American Bar Association and the National Council of Juvenile and Family Court Judges. My work in this regard has been cited in legal text-books, the American Bar Association's standards of practice, and training manuals. The basic problem with HB 1397 is that the needs of children are overlooked in favor of the desires of parents. Mandated 50/50 custody sharing does not provide a child with two **homes**--- it denies the child any **home**. I know of no adult who would enjoy being shuffled every week between two **houses**, with a suitcase, bag, or box in tow filled with clothes, school books, and daily necessities. Why do we force this on kids? Children can have full and healthy relationships with both divorced parents without the arbitrary and misguided "remedy" of 50/50 custody. Thank you for your consideration.

Very truly yours,



Attorney & Counselor at Law

rd:ms/

Attachments

## Testimony of Melody Sebeck

I really don't know where to begin.

House Bill No. 1397 is a bill to promote true gender equality in custody determinations. I believe that this bias has been in place for years ignoring "the best interest of a child". A child's well being is not a one size fits all. We have better laws for the treatment of animals and more severe penalties when those laws are not followed.

I have no idea of where their statistics are coming from and to sneak in "except in rare cases" but our judicial system has a hard time seeing those rare cases (which I do not believe are as rare as they want you to believe) when they have no training of what to look for. I am for a "family court" that can get educated on ""best interest and SAFETY of our children".

Abuse is defined as physical abuse. Of course in those cases it's evident that a judge can make an exception to not allow equal parenting time. In 2019 mental health has been placed in the face of our society. The mass shootings involving young men on innocent children. The courts and Rep. Susan Helm need to research the effects of "emotional abuse" on the child that goes undetected. They say the court can appoint a guardian en litem to protect the "child's best interest". The statute allows mental health professional but they are not used. Retired lawyers are put into that position that will not allow professionals to speak to them. In fact I believe that most are in denial of "emotional" abuse. The courts and the legislature make laws but they have no idea of what goes on behind closed doors unless they can see the bruises and are frankly are not interested in the research in this area and making it part of custody order decisions to protect children from this abuse.

They name the factors in determining custody but then they are proposing ...as close as practicable to 50% of time .... But not exceeding 60% of time spent.

I hate to bring it to their attention but I know first hand of a court that not did address the factors in their order and that after one year of waiting the appellant court agreed .... One year while the child's best interest was ignored and still the courts have not addressed the factors. I agree with this bill that by clear and convincing evidence presented to the courts (and the courts need to allow this evidence) that there should be deviations from the presumption of shared custody.

I object to the language of "the desire" or "the likelihood". First, how can that be determined or measured. Many parents may have the desire. The likelihood of children having to go through trauma by having shared custodial time outweighs the likelihood that the parent can fulfill the factors.

Lastly ... there need to be language within this bill that address the .... When the custody order is not obeyed or when the parenting plan is not followed. Putting it in the hands of the appeal courts to take years is definitely not in the best interest of a child going through this unstable situation. To be frank most parents faced with this cannot afford to go through the appeal process and .... many children suffer.

The answer that satisfies attorneys has been, we will file a contempt. Again this is costly, most parents can't afford it and again the child suffers. I know first have where there were 5 contempts filed, the first in 2016 and others proceeding that and none have been heard by the court to date.

If Rep. Helm is going to make it easier for both parents to raise their children then she needs to make sure that these children are protected. She needs to make sure that all family courts follow procedures.

It is not rare cases. In the storybook world that this Bill is being written for there are many, many undocumented and unreported cases of the effects of children living in a not so "happily ever after" situation. I am sure our school counselors hear these concerns on a regular basis.

I am asking that all legislators focus on "the best interest of the children" and not what the desires or likelihood of the parents.

Our children need a voice. They are not pawns in this custody game. The severe cases of physical abuse are being handled. The other cases, if this bill is enacted will be treating children like possessions in a divorce settlement ... 50/50.

It's true that children will do better with two emotional stable actively involved parents do better. Divorce changes that. The one parent no longer can protect the child from the other parent's likelihood of keeping with the factors that create a stable environment. Now the challenge is how do we make sure that the "child and their best interest is protected"?



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Office: 814-474-2600 | Fax: 814-474-5497  
[www.fairviewschools.org](http://www.fairviewschools.org)

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November 25, 2019

To Whom It May Concern:

It is my pleasure to write this letter on behalf and in support of House Bill 1397. As a high school building principal, I can speak to the toll that parental alienation takes on students in terms of the social well-being and academic performance.

Any type of parental separation can be challenging for students in even the most amicable situations. Such agreeable scenarios are, however, far from common. More frequently, students are left to face the rigors of school while also having to navigate the difficulty of a change in life at home. When a parent is alienated from her/his child, these added tensions take a toll on students' socio-emotional development and have countless impacts on their lives both in and outside of school.

Even if parents are not residing or living together, it is still important for students to have interactions with both of their parents as they experience the trials, successes, setbacks, and joys inherent to the journey from adolescence to young adulthood. I can, anecdotally, second the research noting the improved emotional health and decreased anxiety/depression when students experience shared parenting.

It is my hope that the passage of House Bill 1397 increases the likelihood that students will continue to benefit from shared parenting and that there will be more equality in custody determinations to assure that there are two well-meaning parents involved in their lives, regardless of the adults' disagreements. In the end, this will be what is best for students and provide them with the best opportunity for success as they move into the next chapters of their lives.

Respectfully,

Matthew Lane, Ed.D.  
Fairview High School – Principal  
814.474.3076  
[lanem@fairviewschools.org](mailto:lanem@fairviewschools.org)

**Fairview Elementary School**  
5145 Avonia Road  
Ext. 9-5232

**Fairview Middle School**  
4967 Avonia Road  
Ext. 9-3101

**Fairview High School**  
7460 McCray Road  
Ext. 9-3101

**Transportation**  
4791 Avonia Road  
Ext 9-2291

**Testimony in support of 50-50 custody of the proposed bill HB 1397**

Timothy M Shilling

1203 Philadelphia Ave.

Northern Cambria PA 15714

814-691-5548

[shillingtimothy@yahoo.com](mailto:shillingtimothy@yahoo.com)

President of families civil liberty Union (FCLU) in Pennsylvania

Administrator of Erased parents

Affiliated with and supporters of HB 1397, Dr. Mark Roseman (psychologist) founded the Toby Center for Family Transition, Larry DeMarco Esq, Billy Ayres Esq, Jack Puškar Esq, Parental Alienation Awareness in PA, Erased Parent Through Parental Alienation, United Parents Four Children, Americans for equal shared parenting and PARENTAL ALIENATION World wide support group services.

November 26, 2019

**To The Honorable members of the house judiciary subcommittee on family law in Pennsylvania**

**Rep. Sheryl Delozier, Majority Chair**

**Rep. Tina Davis, Minority Chair**

**Rep. Jerry Knowles**

**Rep. Jonathan Hershey**

**Rep. Paul Schemel**

**Rep. Summer Lee.**

My name is Timothy M Shilling and On November 14, 2019 I emailed Mike Fink of the House Judiciary Staff for the opportunity for a written Testimonial and for an allowance to speak over the 50-50 custody bill being proposed December 9, 2019 in Harrisburg Pennsylvania. On a return email by Mr. Fink Notified me that they will accept my written testimony before December 5, 2019 and my testimony will be made available at the hearing and be listed on the agenda that will become part of the legislative record.

The state of Kentucky has proven that shared parenting does work.

*I deeply appreciate the opportunity to present my written testimony for The support of HB 1397.*

**I now Have 50-50 custody in Pennsylvania against all odds.**

*I will give the Honorable Members of the House committee a copy of my **50-50 custody order, stipulation of custody And a first page TimeStamp copy of the criminal background Report that is required by law for two fit parents**, as well to prove that once the conflict is removed from the case parents can work together for the best interest of their child.*

*Cases like mine are sprouting up all over Pennsylvania And although I have personally been through a lot, I never gave up and I always maintain my composure no matter what happened to me in my case.*

*Now I have 50-50 custody of my daughter after five years of this nightmare. Me And my ex-wife have made Peace with one another. I don't blame my ex-wife for what happened, I blame the party's that created chaos/falsification to create conflict between me and my ex-wife.*

*We could've had 50-50 in the early stages of my case and there wouldn't of been extra conflict But we were told that we had to go through counsel, Which cost us thousands of dollars.*

*Please give parents a right for an option of 50-50 custody so they're not automatically compelled into conflict when 2 fit parents really want to work together for the benefit of their children.*

*Not all parents can work together but please give this right to the parents that can work together.*

**Testimony of Tim Shilling in support of HB 1397 and what can happen to fit parents in the beginning of their case.**

*I am telling My story and I have decided to break the silence to **The Honorable members of the house judiciary subcommittee on family law in Pennsylvania.***

*All I did was filed for a divorce from my wife at the time and I didn't file for a divorce of my child.*

*This is a real case that went horribly wrong, Please do not ignore this truthful written testimony by me of what really happened.*

*No parent should ever be tortured like this for only wanting equal rights of 50-50 custody.*

*In my case I had to hire nine attorneys and the president judge in my case has denied me 27 times to resolve issues. I even requested to have hearings for the meeting of the minds which was also denied.*

*So I had to be a pro se litigant not by choice but by financial necessity and I had to learn how to defend myself and fight back The best that I could by telling the truth. I did not even graduate high school.*

*I have one child that I love more than anything in this world, I was working as a Boilermaker at the time and now I am a caregiver trying to support my family, I have never committed a crime but because I told the truth that all changed.*

*On **December 9, 2013**, I hired an attorney to file for a divorce, custody action and equitable distribution and to defend against a **PFA** that was placed upon me that had many discrepancies of the truthful events.*

**On December 18, 2013 the PFA was dismissed.**

***December 18, 2013** My Attorney had me sign two stipulation agreements **December 17, 2013** a day before the hearing December 18, 2013.*

*The one agreement was for my ex-wife to have spousal support and the other agreement that my wife excepted would allow my wife sole possession of the marital home, I had to pay the mortgage payment and insurance for the minor child and in exchange my wife at the time had to pay the property taxes and maintain the upkeep on the marital home and I would obtain the divorce according to my counsel.*



At a later date I was notified (by my third counsel I hired) that the stipulation agreement should not have been done. Because this stipulation agreement made it appear that the PFA was dismissed because of the stipulation agreement, and was deceived in thinking I had my Final divorce.

**December 20, 2013** my wife hired an attorney and On January 10, 2014 my counsel informed me about a **conflict of interest** that was created in my case (**A family member**).

My attorney informed me that I could find a different counsel because of the conflict of interest, I was under tremendous stress about this situation and was also worried about trying to find a different counsel.

My attorney at the time provided me a waiver of conflict to sign and I felt that there was no choice but to sign the waiver because my attorney as already my divorce, custody and equitable distribution attorney.

**I was confused and I didn't understand why would my wife's attorney decides to take this case and is a highly respected attorney in the community knowingly take a client on that would directly put himself in a conflict of interest that would leave me particularly vulnerable to try to find a different attorney for the divorce custody and equitable distribution case clearly speaks for itself.**

**January 27, 2014** I received a message from my wife that my wife didn't have no objections of unsupervised visits and wouldn't have any objection over equal rights with my child just as long as there's no custody action. I was informed that it has to go through counsel.

**March 6, 2014** I received a letter from my attorney that indicated that my wife's attorney knows that I was seeing my daughter numerous times. My wife even invited me up for visitation with my daughter so we could work things out over custody matters. This was After my wife was demanding supervise visits, so instead of fighting in court over custody me and my wife at the time came to an agreement that this would be more beneficial for our daughter to have a normal visitation schedule.

**April 2, 2014** I received a letter from my attorney that there was accusations against me that I was involved in drug abuse because I was taking at the time prescribe medication for some severe medical problems. My attorney requested from my therapist a description of what was happening to me and requested that I should go get tested at the Indiana County open door for these claims of the alleged drug abuse. So my therapist requested that I go get tested so I can prove without a reasonable doubt that I am not involved in any drug abuse or take any illicit drugs. I paid for a drug test to prove that the accusation was false and misleading. At a later date I passed all their tests.

**April 3, 2014** my attorney sent me a letter indicating. That my wife's attorney was going to file a motion to the court for a risk of harm hearing. This was from a criminal charge that I was facing. On December 4, 2013 I found something and didn't know what it was or what I should do, so at a later date I showed a therapist what I found and asked for advice on what I should do and upon the non-professional opinion of the therapist, told me that I should do the right thing and turn what I found into the Indiana County state police and gave a truthful statement.

On February 3, 2014 I was charged by the Pennsylvania State police for a drug possession for turning in what I found.

I was also notified by my attorney that the other substance that I took to have it tested by a facility was a false positive and the bag that I found and turned in and didn't know what it was, determined to be 99% pure cocaine (according to my attorney and my wife at the time also knew about the alleged claim of the 99% pure cocaine).

At a later date I request at the FBI's office in Johnstown Pennsylvania to do an investigation and notified them of the 99% pure cocaine claim. The FBI agent notified me that is impossible of the purity of this claim and could not do an investigation because it was just under the amount for the FBI to be involved.

I notified my attorney to request an investigation on this matter. My Attorney then notified me that a continued accusation of using drugs was being asserted. I immediately notified my attorney that I was more than willing to take a hair follicle test, a polygraph test and any other test deemed necessary to fight this charge. I already gave proof to my attorney that I had approximately three blood work drug test done and approximately 25 other drug test done and I passed all of them because of my job at the time to prove that this claims would be false. My Attorney notified me that this would not be necessary since I had the **documented proof** and because of the stressful condition of **anxiety** issue that a polygraph test may prove inconclusive and would not be admissible into evidence.

My attorney asked me if I would take a plea bargain. I notified my attorney that I **Will not take a plea bargain.**

**April 22, 2014** I was Notified that there will be a mediation over custody matters that was scheduled for June 25, 2014 at 1:15 PM in the mediation conference room located on floor 4 M of the Indiana County Courthouse. I was still seeing my daughter **unsupervised**, but my wife was indicating that she had refused to sign the consent custody order and that there may have some **ulterior motive** (According to my ex-wife's attorney and my attorney )for not signing a consent custody arrangement.

**May 12, 2014** there was hearing at Homer City Pennsylvania over the pending drug charges. I was never in front of any magistrate. Negotiations was being conducted in the hallways. My Attorney notified me that if a plea bargain to a summary offense of guilt is not done that I will be immediately arrested and charged with a false police report of at least six months in jail at which would affect any chance of custody of the minor child. I notified my attorney that I wanted to go to a hearing and show the documented proof of the discrepancy of the police report and didn't want to **take any kind of plea bargain.**

My attorney became extremely persistent for me to take this plea bargain, making claim that if this isn't done this would cost up to **\$10,000 on top of the \$1500 that was already given to my Attorney** to fight this in court and I will be immediately arrested and lose all hope of having any kind of fair custody arrangements with my daughter ever again.

*I notified my attorney why should I take a plea bargain for something that was turned in willingly and did not know what it was and voluntarily cooperated with the state police to allow the state policeman to thoroughly search the vehicle provided proof that there was no narcotics being used by me and told the truth, I also had documented proof of the discrepancies on the police report, was willing to take a hair follicle test to prove that I was only taking a prescribed medication.*

*My attorney explained that since I turned A substance into the police that contained 99% pure cocaine (according to my attorney) and of the seriousness of it, That if a hearing is conducted that I will lose and go to jail immediately and will also be charged with falsifying a police report.*

*There was a continuing negotiation for me to take a plea bargain under threat of incarceration not having Rights to see my daughter and the extreme cost it would take to push this into court, I under severe duress and finally did a plea-bargain for a summary offense that my attorney claimed he would start the custody issue immediately if I take a plea bargain and I will not have a criminal record.*

*So because of the threat of not seeing my daughter and many other things I felt I had no choice but to take a plea bargain for something I was telling the truth about.*

***May 12, 2014** my attorney sent me a letter that showed that I did not want to agree to do this plea bargain but my attorney made it appear that I as paranoid. I was not paranoid but extremely displeased over taking a plea bargain for telling the truth and did not falsify any police report.*

***May 2014** my attorney had me sign a stipulation for the custody issues and visitation schedule for me and my daughter.*

***May 21, 2014** my attorney sent me a letter that shows that all provisions have been made for both parties to agree and sign the custody stipulation.*

***May 30, 2014** a letter sent to my attorney by my wife's attorney will indicate the my wife's attorney was now going to use this drug charge against me. Also claiming of other discrepancies will also be used against me.*

**May 30, 2014 to June 9, 2014**, during this time I received numerous Messages from my wife that there was no **hostility or fear from my daughter**. The two parties was civil to one another and ready to move on with our lives. The wife understood and accepted at the time that the two parties would no longer be together. My wife **even promised that she would never keep my daughter away from me.**

**June 2, 2014**, My Attorney notified me that my wife was ready to sign a stipulation consent for custody order and also requested my wife's attorney to return a copy to my attorney for the final conclusion of the custody agreement.

#### **Start of the conflict that created parental alienation**

**June 16, 2014** at 10:53 AM, my wife's attorney emailed my attorney. Now all of a sudden my wife took my daughter to psychologist. Now all of a sudden there was claims being made that my daughter was saying some pretty disturbing things and that the psychologist notified my wife to refuse to sign the custody consent.

**June 16, 2014** there was a complete **change with my wife that revealed the true intentions.** My wife took my daughter to a facility and made **statements** about me that wasn't true. My wife was now all of a sudden **allegedly** blaming me (**according to the attorneys**) of hurting our daughter (**which didn't make any sense**). Instead of my wife signing the custody agreement like previously explained by my attorney, my wife was **allegedly** claiming that my daughter was scared of me which created fear to cause the parties to go to an unnecessary mediation. It came to my understanding that my daughter was write notes and allegedly making claims to this accusation. **I asked to see my daughter and my wife said never, mediation next week she will be there. This didn't make any sense why my wife at the time would all of a sudden do this.**

**June 25, 2014**, My attorney **did not file on record A criminal background check for myself for the custody mediation June 25, 2014, which is required by the law** and I did not have any criminal record or any abuse history. But since this was not filed I was tricked into supervised visits and reunification counseling. **My wife's attorney did not file a criminal background report until July 7, 2014 after the mediation. Both criminal background report should've been filed not later than 30 days after service of the complaint or petition.**

Rule 1915.3-2; in part

(a) criminal record or abuse history verification. A party must file and serve with the complaint, any petition for modification, any counterclaim, any petition for contempt or any count for custody in a divorce complaint or counterclaim verification regarding any criminal record or abuse history of that party and anyone living in that party's household;

The [petitioner] party must attach a **blank verification form to a complaint, counterclaim or petition served upon the[ respondent] other party.** Although the [respondent] party served need not file a responsive pleading pursuant to Rule 1915.5, [the respondent] **he or she must file with the court a verification regarding [any] his or her own criminal record or abuse history [of the respondent] and that of anyone living in[the respondent's] his or her household on or before the initial in-person contact with the court (including, but not limited to, a conference with a conference officer or judge or conciliation, depending upon the procedure in the judicial district) but not later than 30 days after service of the complaint or petition.** [upon the respondent.]

**A party's failure to file a Criminal Record or Abuse History Verification may result in sanctions against that party.** Both parties shall file and serve updated verifications five days prior to trial.

(b) Initial Evaluation. At the initial in-person contact with the court, the judge, conference officer, conciliator or other appointed individual shall perform an initial evaluation to determine whether the **existence of a criminal or abuse history of either party or a party's household member poses a threat to the child and whether counseling is necessary.** The initial evaluation required by 23 Pa.C.S. § 5329(c) shall not be conducted by a mental health professional. After the initial evaluation, the court may order further evaluation or counseling by a mental health professional if the court determines it is necessary. Consistent with the best interests of the child, **the court may enter a temporary custody order on behalf of a party with a criminal history or a party with a household member who has a criminal history, pending the party's or household member's evaluation and/or counseling.**

*Also I was notified that I had to pay for Half of the mediation before the mediation even started and mine was paid and filed on record March 7, 2014 and I have to have a certificate of the children in the middle filed on record before the parties could even have a mediation, Mine was filed March 26, 2014. But My wife at the time Attorney did not filed the children in the middle certificate until July 29, 2014 well after the custody mediation June 25, 2014.*



## PROTHONOTARY OF INDIANA COUNTY

Randy Degenkolb  
Prothonotary



Sharon Miecik  
First Deputy

TIMOTHY MARK SHILLING  
vs.  
PAULA S SHILLING

Case Number  
12066 CD 2013

### PROTHONOTARY DOCKET ENTRIES

12/18/2013 COMPLAINT IN DIVORCE AND CUSTODY AND EQUITABLE DISTRIBUTION AND CUSTODY  
12/18/2013 AFFIDAVIT OF CUSTODY - PLAINTIFF  
12/18/2013 ACCEPTANCE OF SERVICE  
12/18/2013 STIPULATION AND AGREEMENT AS TO EXCLUSIVE POSSESSION OF MARITAL RESIDENCE  
12/20/2013 PRAECIPE FOR ENTRY OF APPEARANCE FILED BY CHRISTOPHER S WELCH ESQ AND ANNMARIE E EVERETT ESQ ON BEHALF OF DEFENDANT  
12/26/2013 ORDER OF COURT DATED DEC 26, 2013 AN ICC IS SET FOR JANUARY 16, 2014 AT 9:00 O'CLOCK A.M. IN JURY ROOM NO 2 JUDGE MARTIN COPY TO ATTY HUMMEL AND ATTY WELCH  
01/24/2014 MOTION FOR MEDIATION CONFERENCE FILED ON BEHALF OF PLAINTIFF  
01/27/2014 ORDER OF COURT DATED JAN 24, 2014 A MEDIATION CONFERENCE IS SCHEDULED FOR THE 16TH DAY OF APRIL 2014 AT 1:15 P.M. JUDGE MARTIN COPY TO ATTY HUMMEL AND ATTY EVERETT  
03/07/2014 MEDIATION FEE PAID BY TIMOTHY SHILLING  
03/26/2014 CHILDREN IN THE MIDDLE CERTIFICATE FILED FOR TIMOTHY SHILLING  
04/02/2014 MOTION FOR CONTINUANCE  
04/07/2014 ORDER OF COURT DATED APRIL 3, 2014 CONTINUING THIS MATTER TO JUNE 25, 2014 AT 1:15 O'CLOCK P.M. IN THE MEDIATION CONFERENCE ROOM JUDGE MARTIN COPY TO ATTY HUMMEL AND ATTY WELCH  
06/18/2014 MEDIATION FEE PAID BY BUDASH AND WELCH FOR PAMELA SUE SHILLING  
07/07/2014 CUSTODY CONSENT ORDER OF COURT WJM COPY TO TIMOTHY MARK SHILLING AND ATTY WELCH  
07/07/2014 CRIMINAL RECORD/ABUSE HISTORY VERIFICATION - PAULA SUE SHILLING  
07/29/2014 CHILDREN IN THE MIDDLE CERTIFICATE FILED FOR PAULA  
08/25/2014 WITHDRAWAL OF APPEARANCE WITH CONSENT FILED BY FRED D HUMMEL ESQ ON BEHALF OF PLAINTIFF  
08/25/2014 ENTRY OF APPEARANCE FILED BY TIMOTHY S BURNS ESQ ON BEHALF OF PLAINTIFF - COPY TO ATTY  
10/17/2014 WITHDRAWAL OF APPEARANCE WITH CONSENT TO WITHDRAWAL FILED BY TIMOTHY S BURNS ESQ ON BEHALF OF PLAINTIFF - COPY TO ATTY  
10/23/2014 CORRESPONDENCE FROM LAKE PSYCHOLOGICAL SERVICES  
10/30/2014 PRAECIPE FOR APPEARANCE OF TIMOTHY MARK SHILLING PLFF PRO SE  
10/30/2014 PETITION FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER ON BEHALF OF TIMOTHY SHILLING CONCERNING PAULA SHILLING NOT PAYING TAXES COPY TO ATTY WELCH ON NOV 3, 2014  
10/30/2014 PETITION FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER ON BEHALF OF TIMOTHY MARK SHILLING CONCERNING EXTRACURRICULAR AND SCHOOL ACTIVITIES COPY TO ATTY WELCH ON NOVEMBER 3, 2014

Indiana County Prothonotary, 11/2/2013

10/30/2014 PETITION FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER ON BEHALF OF TIMOTHY MARK SHILLING CONCERNING LAKE PSYCHOLOGICAL SERVICES COPY TO ATTY WELCH ON NOV 3, 2014  
10/31/2014 ORDER PETITION FOR CIVIL CONTEMPT ON BEHALF OF LAKE PSYCHOLOGICAL SERVICES IS DENIED JUDGE MARTIN COPY TO ATTY WELCH AND TIMOTHY SHILLING  
11/03/2014 ORDER DATED OCTOBER 31, 2014 A HEARING ON THE PETITION CONCERNING TAXES NOT BEING PAID IS SET FOR DEC 9, 2014 AT 8:30 A.M. IN COURTROOM 3. JUDGE MARTIN COPY TO

*June 25, 2014 there was a mediation for custody. I was not allowed in the mediation process. I had to wait out in the hallway/waiting room with family members. My Attorney notified me that the parties came to an agreement and had equal rights with my Daughter. My Attorney then notified me to sign the numerous documentation for the custody order. I signed a similar agreement for a custody stipulation back in May 2014 of the parenting plan that was presented. The parenting plan lays out in detail of the custody arrangements. A document similar to This is what I agreed to and at this time there was no mention of supervised visits or reunification counseling upon signing any agreement.*

*Then my attorney went back into the mediation and when my attorney came back and notified me that my daughter was making claims to the mediator That my daughter was scared of me. My Attorney also made claim that I have to have reunification counseling and supervised visits. I notified my attorney that I will not agree to do this and it would appear that my wife or someone created this fear. My attorney would not let me participate in the mediation process, The mediator never spoke to me. I wanted to hear for myself that my daughter was making these alleged claims. My Attorney refuse to allow me to participate in the mediation process.*

*At a later date I requested transcripts of the mediator speaking to my daughter, I was notified there wasn't any. I Also verbally requested to my attorney for an appeal.*

*I didn't understand what happened because Before June 16, 2014 I had a great relationship with my daughter and me and my wife was getting along. This fear was created for the whole purpose of directly parenterally alienating me from my daughter. I was in complete disbelief that this could happen And couldn't understand how a system that was created for the good intentions for families could now be used against me to create conflict that would cost me even more financial harm.*

*My attorney informed me that if I don't go to reunification counseling and supervised visits at some point I could be held in contempt of court.*

Clearly this act was based upon fraud in the inducement. when my attorney notified me to sign the custody order it was based upon equal Rights and a parenting plan with my daughter. There was no mention of supervise visit or reunification counseling as there was absolutely no need for that upon signing the documents my attorney gave me.

October 9, 2014 and November 15, 2014 I was notified by my wife that when the mediator spoke with my daughter that my daughter was now scared of me all of a sudden. My wife claims that the mediator base the decision off of my daughter's alleged fears of being scared of me. The mediator never spoke to me, my attorney clearly did not show evidence of the **46 visits and 200 phone calls**, did not show the pictures where my daughter enjoyed spending time with me, including iMessages that my daughter sent to me to further support that there was no alleged fear of my daughter. I didn't understand why anyone would create this alleged Fear.

This would be biased and improper for a mediator to base a decision under alleged fear of my daughter that was under false pretenses. The mediators requirements are to assist The parties in attempting to reach a mutual agreement this is not the decision of the mediator to based any decision off of alleged fear without even speaking to me.

According to rule **1940.4(a)(1)** The mediator has to have minimum requirements psychiatry, psychological counseling, family therapy, and should've recognized the discrepancies of my daughter's alleged fear and according to rule **1940.6(a)(4)** relating to termination of mediation inappropriate for mediation. Which the mediator has an ethical obligation to do. Rule **1940.6(b)** should've terminated the mediation due to suspected manipulation of my daughter's alleged fear and taking my daughter to a psychologist **nine days** before the mediation, that should've been a factor of why this happened right before the mediation, that should've indicated to the mediator immediately and should've been under scrutiny. Also because there was no criminal background report filed before the mediation June 25, 2014 the mediator should've terminated the custody matter until a criminal background report was properly filed. Rule 1915.3-2: (a).

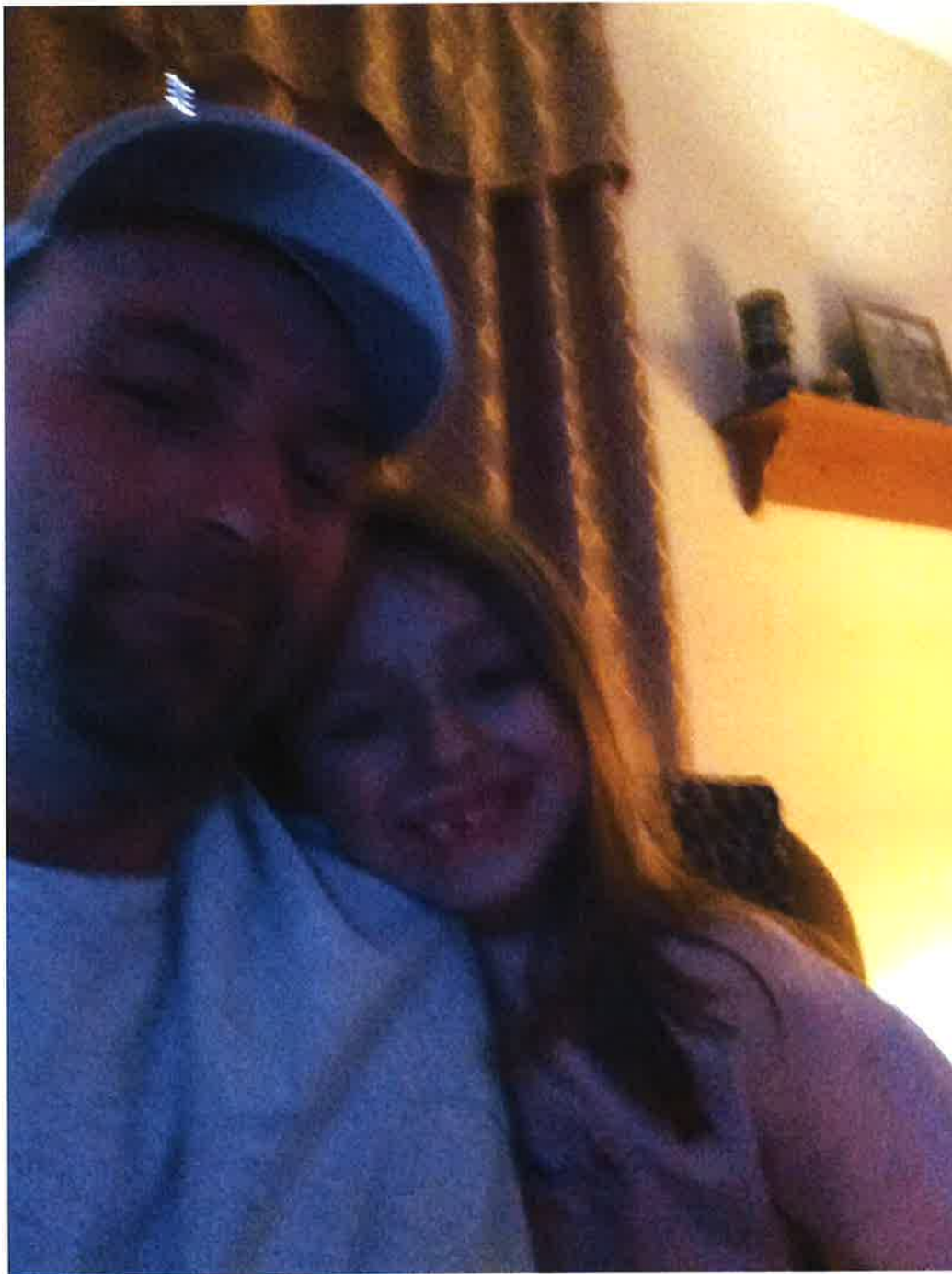
**Also According to rule 1940.5(6)(c) The mediator may meet with my daughter upon the consent of both parties. I never did give consent and the mediator only heard what my seven-year-old daughter was now all of a sudden Allegedly claiming. I never even spoke to the mediator and never had a fair opportunity to question the motives Involved in custody matters. I was not allowed to be involved in the custody matters .I was not allowed to show the documented prove that there was no alleged fear and my wife was going to sign a fair custody agreement, then all of a sudden my daughter was making alleged claims of fear which didn't make any sense.**

**I also did not understand why my attorney didn't stop this immediately and my attorney could've requested for the mediation to be terminated as well. My attorney could've used rule 1940.6 (2)(a).**

**I still was in disbelief that My attorney had me sign numerous documentation in the hallway/waiting room, then make a claim that I had a fair custody arrangements ,then make claim afterwards about reunification counseling and supervise visits to make it appear that I agreed to the reunification counseling and supervised visits.**

**I was never a danger to my daughter because if I was such a danger then why did my wife before June 16, 2014 requested numerous times for me and my daughter to spend time together at The marital home and I also had my daughter down at my place taking her to meet my friends without any altercation.**

***Picture taken before June 16, 2014 of me and my daughter and she was never scared of me it was all a lie. This was a dirty trick to put me and my daughter in reunification counseling and supervised visits for no reason except to cause Financial harm.***



***There should've been no reunification counseling or supervised visits and was conducted under trickery and fraud. (fraud) an intentional provision of the truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. A false representation of a matter of fact. Which deceives and is intended to deceive another server that he shall act upon it to his legal injury. It consists of some deceitful practice or willful device, restored to with intent to deceive another of his rights, or in some manner to do him harm. (emphasis added)-Black's law dictionary 50 division, page 594.***

*McNally vs U.S.483,U.S.350,371-372(1987).Quoting U.S. vs Holzer,816 F.2d,304,307(7th Cir.1987)*  
*fraud in it's elementary common law sense of deceit, includes the deliberate concealment a material information in a setting of fiduciary obligation. A public officer is a fiduciary two words the public, and ifhe deliberately conceals material information from them he is guilty of fraud.*

*The court order of custody was signed by the Judge July 7, 2014 and was induced under fraud and therefore lacking the inherent power to enforce the custody order produced by fraud is therefore void and nulled. Also according to the court docket my wife's attorney filed July 7, 2014 a criminal background report but yet my attorney never filed one, which both attorneys violated the law. Rule 1915.3-2:*

***A Void judgment or order is one that is entered by a court lacking jurisdiction over the parties or the subject matter, or lacking the inherent power to enter a particular order or judgment, or where the order was produced by fraud.In re Adoption of E.L.,733 N.E.2d 846,(111.App,1 Dist.2000).***

***My wife's attorney and my attorney also conveniently picked the reunification counseling facility and supervised visit center, I had no choice.***

*Since I was being forced to do this against my will I requested numerous times for my attorney to do something about this custody order. Because of this **Bad faith** custody order that should be nulled and void.*



***At a later date I was speaking to different counsel's about what I can do about this custody order and the attorney explained that I couldn't do anything about the existing custody order now and if reunification counseling and supervised visit was necessary that I should've had a right to pick from three different facilities and the court order should've showed a reason why I had to go to reunification counseling and supervise visits in the first place.***

***July 10, 2014*** my attorney notified me in a letter to please read this carefully and be certain to abide by all the terms and conditions of the custody court order when I go to this reunification counseling center.

***July 14, 2014*** I went to the reunification counseling place that I was Forced to go to and I was informed that I have to sign numerous documentation that is part of the process of reunification counseling. My Attorney notified me to sign release documents and any other documents that they have at this facility, I was tricked and forced to participate in reunification counseling for my daughter that I have already been seeing for the last five months.

***At this facility later on I was notified by the therapist that because of my plea bargain (that I didn't want to take) was magically was being held against me.***

23 Pa.C.S.A.5329: consideration of criminal conviction.

***(a) offenses. Where a party seeks any form of custody, the court shall consider whether the party or member of the party's household has been convicted of Or has pled guilty or no contest to any of the offenses in this section or an offense in another jurisdiction substantially equivalent to any of the offenses in this section. The court shall consider such conduct and determine that the party does not pose a threat of harm to the child before making an order of custody to the parent when considering the following offenses.***

***Section 13(a)(1) of the act of April 14, 1972 P.L.233, No.64), known as the controlled substance, drug, device and cosmetic act, to the extent that it prohibits the manufacture, sale or delivery, holding, offering for sale or possession of any controlled substance or other drug or device.***

***(C) initial a valuation; at the initial in person contact with the court, the judge, conference officer or other appointed individual shall perform an initial evaluation to determine whether the party or household member who committed an offense under section (a) poses a threat to the child and whether counseling is necessary. The initial evaluation shall not be conducted by a mental health professional. After the initial evaluation, the court may order further evaluation or counseling by a mental health professional if the court deems it is necessary.***



**(d) Counseling.**

**(1) where the court determines under section(c) that the counseling is necessary, it shall appoint a qualified professional specializing in treatment related to the particular offense to provide counseling to that attending individual.**

**(2) counseling may include a program of treatment or individual therapy design to rehabilitate the offending individual which addresses, but not limited to, issues regarding physical and sexual abuse, the psychology of the offender and the effects of the offense on the victim.**

**(e) subsequent evaluation:**

**(1) at any time during or subsequent to the counseling under subsection (d), The court may require another evaluation to determine whether further counseling is necessary.**

**(2) if the court awarded custody to a party who committed an offense under section(a) or who shares a household with an individual who committed an offense under subsection(a), The court may require subsequent evaluations on the rehabilitation of the offending individual and the well-being of the child subsequent to the order. If, upon review of a subsequent evaluation, the court determines that the offending individual poses a threat of physical, emotional or psychological harm to the child, the court may schedule a hearing to modify the custody order.**

***July 21, 2014, my wife's attorney notified My attorney about me wanting to go see my daughter at a Bible school play. According to the court order that was imposed on me, I was allowed to participate in all activities. My wife's attorney was making claims that I would be in violation of the court order and was going to petition the court accordingly. This was based upon me just trying to see my daughter in a Bible school play. My wife's attorney was purposely using his position to threaten me to not see my daughter and interference with the current custody order. My attorney would not stick up for me and notified me to not participate to see my daughter at the Bible school play because my wife's attorney was going to file a petition of contempt of court.***

*My wife's attorney was clearly interfered with the custody order and My attorney would not do anything about it, this court order that was in place July 7, 2014, was causing more parental alienation, intentional emotional distress on myself. In the custody order it clearly says that on page 1, third paragraph, 13th line, Each parent shall have full access to school or medical records of the Child and Shall be equally entitled and is encouraged to participate jointly and medical appointments, parent/teacher conference or back to school nights of the child as well as to attend school performances, sports events or extracurricular activities of the child.*

*Parent's interest in custody of their children is a liberty interest which has received considerable constitutional protection; a parent who is deprived of custody of his or her child, even though temporarily, suffers thereby grievous loss and such loss deserves extensive due process protection. In the interest of Cooper, 621 P 2d 437; Kansas App Div 2d 584, (1980).*

*September 9, 2014 and October 14, 2014, The reunification counseling center sent a Bill that intent to extort me for services never rendered by reunification counseling center for psychological services. There was an email from This reunification counseling center that was allegedly claiming they were providing me with Psychological Services that never happened. This reunification counseling facility was showing their intent of making it appear that they were submitting claims on my behalf. Even though I never seen a psychologist. This facility was billing for a therapist and a psychologist at the same time which created substantial unjustified enrichment. Even though there was never no mental treatment that was conducted by this reunification counseling center for myself. Also because I found out what they was doing they created a bogus diagnosis of me so I notified this counselor and this facility that they are in direct violation of the APA standards and consumer laws.*

## ***Professional compliance for psychologist under the APA standards and Pennsylvania unfair trade practices and consumer law.***

*All psychologists are required by standard 9.01 a of ethics code of the American Psychological Association.*

*APA code of ethics to be considered of Lake Psychiatry services violations.*

*3.10 informed consent.(a)(b)(4),(c)(d)*

*5.01 avoidance of false or deceptive statements(a)(d)(5)(7).*

*6.01 documentation of professional and scientific work and maintenance of records(4)(5).*

*6.04 fees and financial arrangements.(c).*

*6.06 accuracy in reports to payors and funding sources.*

*9.01 bases of assessments(a)(d)(c).*

*9.03 informed consent in assessments(a)(3)(d).*

*10.01 informed consent to therapy.(a)(d).*

*10.02 therapy involving couples or families,(a)(1)(2)(b).*

***Pennsylvania unfair trade practices and consumer protection law.73 P.S.201-2(4).***

***This facility was directly interfering with my custody rights by creating falsification so they could keep me held hostage in reunification counseling so they could create maximum profit. A parent's rights to The preservation of his relationship with his child derives from the fact that the parent's achievement of a rich and rewarding life is likely to depend specifically on his ability to participate in the wearing of his child. The child's corresponding right to protection from interference in the relationship derives from the psyche importance to him of being raised by a loving responsible, and reliable adult. Franz v. U.S., 707 F 2d 582, 595^Q 599; U.S. Ct App (1983).***

*Because of the custody order I could no longer afford to pay the fees to see my daughter at the supervised visit center and no attorney would help me modify the custody order **(At later date in 2019 I found out that I have been deceived by attorneys and that there could've been a modification of custody arrangements at any time to be fair .** Karis v. Karis, 544 A. 2d 1328 -518 Pa. 601 (1988), the Supreme Court.*

*I was desperately wanting to see my child and I notify the agency that I was laid off my job and running out of unemployment and could not pay there fee for me to see my own daughter. This facility **refused** to allow me to see my own child because of this court order that was created to cause me and my daughter harm. **The facility was also going to notify my wife's counsel to let them know that I could no longer make their payments to see my daughter and claiming if I don't pay them that I was going to be in contempt of court.***

***October 23, 2014, my wife's attorney was planning on using The reports from The reunification counseling center and supervised visit center to modify the current custody arrangement. I spoke with another attorney about my horrifying case it was explained to me that The judge will review and base his decision on what these facilities said about me. I found out this reunification counseling center was illegally billing for services that was not rendered, this facility created a false report against me to cause me harm. I was also told that because of my plea bargain it was also being used against me for custody, even though I was clearly no threat of harm to my child and I was no criminal but a father that has been set up.***

**Chapter 53, 5329, consideration of criminal conviction.**

**(e) Subsequent evaluation:**

*(1) and anytime during or subsequent to the counseling under section(d), The court may require another evaluation to determine whether future counseling is necessary.*

*(2) if the court awarded custody to a party who committed an offense under section (a) or who shares a household with an individual who committed an offense under section (a), The court may require subsequent evaluations on the rehabilitation of the offending individual and the well-being of the child subsequent to the order. If, upon review of a subsequent evaluation. The court determines that the offending individual poses a threat of physical, emotional or psychological harm to the child, the court may schedule a hearing to modify the custody order.*

**October 30, 2014** I filed a petition for civil contempt for disobedience of the custody order.

**October 30, 2014** I filed a petition for civil contempt for disobedience of the custody order by the reunification counseling center for providing false information and refusing my rights for access of records over the reunification counseling of my daughter. This facility had my wife sign a paper to keep me from access of record which was in violation of the custody order July 7, 2014.

**Title 23, Chapter 53, 5336, access to records and information: (a) General rule; except as provided in subsections(b) and c:**

*(1) A party granted so or shared legal custody he under section 5323(relating to a word of custody) shall be provided access to:*

*(3) upon request, a parent, party or entity possessing any information set forth in paragraph 1 shall provide it to any party granted legal custody.*

*(b) non-disclosure of confidential information: The court shall not order the disclosure of any of the following information to any Parent or party granted custody:*

*(4) information independently produced from disclosure by the child's right to confidentiality under the act of July 9, 1976(P.L.817,No.,143), known as the mental health procedures act.*

**31. October 31, 2014** the petition for civil contempt of The reunification counseling center was denied by the Judge.

**Title 23, chapter 53, 5336(a)(b) Rights to obtain progress report but it was still denied.**

**Rule 1915.8. Physical and mental examination of persons:**

*(a) The court may order the children and/or any party to submit to fully participate in an evaluation by an appropriate expert or experts. The order, which Shall be substantially in the form set forth in*

**rule 1915.18, May be made upon the court's own motion, upon the motion of a party with reasonable notice to the person to be examined, or by agreement of the parties. The order shall specify the place, manner, conditions and scope of examination and the person or persons by whom it shall be made and to whom distributed. In entering an order directing an evaluation for Offender to this rule, the court shall consider all appropriate factors, including the following, if applicable.**

- (b) unless otherwise directed by the court, the expert shall deliver to the court, to their attorneys of record for the parties, to any unrepresented party, and to Guardian ad litem and/or counseling for the child, if any, copies of any reports arising from the evaluation setting out the findings, the results of all tests made, diagnosis and conclusions. No reports shall be filed of record or considered evidence unless and until admitted by the court. Any report which is prepared at the request of a party, with or without A court order, and which a party intends to introduce at trial, must be delivered to the court and other party at Least 30 days before trial. If the report or any information from the evaluator is provided to the court the evaluator shall be subjected to cross examination by all counsel and any unrepresented party without regard to whom obtains or parties for the evaluation.**
- (c) if any party refuses to obey an order of the court made under subdivision (a) of this rule, the court may make an order refusing to allow the disobedient party to support or oppose designated claims or defenses, prohibiting the party from introducing in evidence designated documents, things or testimony, prohibiting the party from introducing evidence of physical or mental condition, or make such other order as in just. The willful failure or refusal of a party to comply with an order entered pursuant to this rule may also give rise to the findings of contempt and the imposition of such sanctions as may be deemed appropriate by the court, including, but not limited to, an adverse inference against the non complying party.**

**November 7, 2014** I filed a motion for discontinuance of the current custody order.

**November 24, 2014** petition to strike my Motion to discontinue was filed by my wife's attorney.

**November 26, 2014** it is hereby ordered and decreed my Motion to discontinue has been stricken by the Judge.

**February 26, 2015** petition for contempt of the custody order was filed, But my attorney did not file a criminal background report for me as I have no criminal record. Which can be seen on the picture below.

**March 2, 2015** hearing for contempt of custody order was set for March 31, 2015 at 8:30 AM.

**March 10, 2015**, My wife's attorney filed a criminal background report.

**March 17, 2015**, The court allowed my attorney to be removed from the case.

**March 20, 2015**, I hired a new attorney to help me out with the contempt charges and try to resolve all issues including custody matters.

**March 26, 2015** there was a hearing for contempt charges to be held on March 31, 2015 it was already set but the Judge called My attorney at the time and My wife's attorney My wife's attorney to let The parties know about the hearing.

**March 31, 2015** there was a contempt hearing for my wife of the custody order. I also wanted to show the court The parental interference by my wife's council, the reunification counseling center and the supervise visit center of the said custody order.



10/30/2014 PETITION FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER ON BEHALF OF TIMOTHY MARK SHILLING CONCERNING LAKE PSYCHOLOGICAL SERVICES COPY TO ATTY WELCH ON NOV 3, 2014

10/31/2014 ORDER PETITION FOR CIVIL CONTEMPT ON BEHALF OF LAKE PSYCHOLOGICAL SERVICES IS DENIED JUDGE MARTIN COPY TO ATTY WELCH AND TIMOTHY SHILLING

11/03/2014 ORDER DATED OCTOBER 31, 2014 A HEARING ON THE PETITION CONCERNING TAXES NOT BEING PAID IS SET FOR DEC 9, 2014 AT 8:30 A.M. IN COURTROOM 3 JUDGE MARTIN COPY TO ATTY WELCH AND TIMOTHY MARK SHILLING

11/03/2014 ORDER DATED OCTOBER 31, 2014 A HEARING ON THE PETITION FOR CIVIL CONTEMPT CONCERNING TEXT MESSAGES IS SET FOR DEC 9, 2014 IN COURTROOM 3 AT 8:30 A.M. JUDGE MARTIN COPY TO ATTY WELCH AND TIMOTHY MARK SHILLING

11/07/2014 MOTION FOR DISCONTINUANCE FILED ON BEHALF OF PLAINTIFF

11/24/2014 PETITION TO STRIKE PLAINTIFF'S MOTION TO DISCONTINUE

11/26/2014 ORDER DATED NOV 25, 2014 IT IS HEREBY ORDERED AND DIRECTED THAT THE PLAINTIFF'S MOTION TO DISCONTINUE BE STRICKEN JUDGE MARTIN COPY TO ATTY WELCH AND TIMOTHY MARK SHILLING

12/09/2014 PRAECIPE FOR ENTRY OF APPEARANCE FILED BY MICHAEL VAPORIS ESQ ON BEHALF OF PLAINTIFF

02/26/2015 PETITION FOR CONTEMPT OF CUSTODY ORDER FILED ON BEHALF OF PLAINTIFF

03/02/2015 NOTICE AND ORDER TO APPEAR WITH HEARING SET FOR MARCH 31 2015 @8:30AM COURTROOM #3 COURTHOUSE TMB COPY TO MICHAEL VAPORIS ESQ AND CHRISTOPHER WELCH ESQ

03/10/2015 CRIMINAL RECORD/ABUSE HISTORY VERIFICATION - DEFENDANT

03/17/2015 PETITION FOR A RULE TO SHOW CAUSE FILED ON BEHALF OF ATTORNEY MICHAEL VAPORIS AND KATRINA KAYDEN

03/17/2015 ORDER - MICHAEL N VAPORIS ESQ AND KATRINA M KAYDEN ESQ ARE GRANTED LEAVE TO WITHDRAW AS COUNSEL FOR PLAINTIFF WJM COPY TO MICHAEL VAPORIS ESQ/KATRINA KAYDEN ESQ CHRISTOPHER WELCH ESQ TIMOTHY MARK SHILLING

03/20/2015 APPEARANCE OF COUNSEL FILED BY J ALLEN ROTH ESQ ON BEHALF OF PLAINTIFF

03/26/2015 MOTION FOR SPECIAL RELIEF FILED ON BEHALF OF PLAINTIFF

03/26/2015 ORDER OF COURT SETTING HEARING FOR MARCH 31 2015 @8:30AM COURTROOM #3 WJM COPY TO J ALLEN ROTH ESQ AND CHRISTOPHER WELCH ESQ (ALSO CALLED ATTY ROTH AND ATTY WELCH TO LET THEM KNOW)

03/30/2015 ANSWER TO PLAINTIFF'S MOTION FOR SPECIAL RELIEF

03/31/2015 ORDER OF COURT WITH PETITION FOR CONTEMPT OF CUSTODY ORDER IS DISMISSED CH COPY TO J ALAN ROTH ESQ AND CHRISTOPHER WELCH ESQ

04/02/2015 ORDER OF COURT DATED MARCH 30 2015 CONTINUING THIS PROCEEDING UNTIL AUGUST 26 2015 @1:15PM COURTROOM #3 FLR 4 COURTHOUSE CH COPY TO CHRISTOPHER WELCH ESQ AND J ALAN ROTH ESQ

05/07/2015 MOTION TO WITHDRAW AS COUNSEL

05/07/2015 ORDER OF COURT - ORDERED THAT THE APPEARANCE OF J ALLEN ROTH ESQ ON BEHALF OF PLAINTIFF IS WITHDRAWN TMB COPY TO J ALLEN ROTH ESQ AND CHRISTOPHER WELCH ESQ AND COPY MAILED TO TIMOTHY MARK SHILLING ON 5/8/2015

08/03/2015 APPEARANCE OF TIMOTHY MARK SHILLING PRO SE

08/17/2015 MOTION FOR CONTINUANCE FOR SPECIAL RELIEF FILED BY TIMOTHY SHILLING

08/19/2015 ORDER OF COURT DATED AUGUST 18 2015 RESCHEDULING HEARING FOR SEPTEMBER 28 2015 @8:30AM CH COPY TO CHRISTOPHER WELCH ESQ THERESA C HOMADY ESQ JUSTIN P SCHANTZ ESQ JAMES R WALSH TRUSTEE AND COPY MAILED TO TIMOTHY MARK SHILLING ON 8/19/2015

09/25/2015 MOTION TO CONTINUE HEARING

cc:\Court2\Bode\Planning\Bode\Bode\Bode

**23 Pa.C.S.4346 provides:**

**(a)General rule. A party who willfully fails to comply with any visitation or parental custody order May, as prescribed by general rule, be adjudged in contempt.**

**(b)The five elements deemed essential to a civil contempt adjudication are (1) A rule to showcase why attachment should issue, (2) and answer and hearing (3) A rule absolute (4) A hearing on the contempt citation (5) An adjudication. Cahalin vs Goodman, 280 Pa. Super. 228, 421 A.2d 696, 698(1980).**

**The US Court of Appeals for the 9th circuit(California) held that the parent-Child relationship is a constitutionally protected liberty interest(see; declaration of independence-Life, liberty and the pursuit of happiness and the **14th amendment of the United States Constitution-no state can deprive any person of life, liberty or property without due process of law nor deny any person the equal protection of the laws.**) Kelson v. Springfield, 767 F 2d 651; US Ct App 9th Cir. (1985).**

**My attorney at the time without any notification to me orally withdrew all the contempt charges. (At a later date my own attorney filed bankruptcy for my ex-wife April 23, 2015 without my knowledge or consent to set me and my ex-wife up for more financial harm, he was removed from my wife's bankruptcy case July 2, 2015 and was publicly reprimanded by the disciplinary board of Pennsylvania September 13, 2016 for his misconduct.)**

**I was not properly notified by My attorney at the time that he orally withdrew all the contempt charges.**

**I didn't find out until a later date what really happened.**

**An Elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all circumstances to apprise interested parties of pendency of the action and afford them an opportunity to present their objections. (Mullane vs Cent. Hanover Bank & Trust Co. 339 U.S.339,314-15(1950).**

I was only prepared for contempt charge hearing and did not know that there was any kind of modification of the custody order that was even requested. If there would've been any kind of modification for a custody I should've been notified. If there was a modification of custody I would've requested that the supervised visits and reunification counseling would no longer be needed, as it was all based Upon deception. Also, all I wanted was a fair custody arrangement with my daughter.

Langendorfer vs Spearman 797 A.2d 303 (2002) in addition to this case to the foregoing, we emphasize that father's due process rights were violated by the actions taken by the court, because father had no notice that custody would be an issue in the proceedings. Notice, in our adversarial process, ensures that each party is provided adequate opportunity to prepare and thereafter properly advocate its position, ultimately exposing all relevant factors from which the finder of the facts may make an informal judgment. (Choplosky, 584 A.2d at 342, without notice to the parties that custody was at issue, the trial court could not assume that the parties had either significantly exposed the relevant factors or properly argue their significance. Consequently neither we nor the trial court make an informed, yet quintessentially crucial judgment. Id. 343.

Nobility, The fathers temporary modification petition only requested that the court order that all family conduct including contact with father be prohibited for the period of time suggested by mentor. The petition did not request changes involved custody or legal custody.

The father recognized that pursuant to that Domestic Relations code (6) A party may be held in contempt for willfully failing to comply with the visitation or partial custody order, so as long as the procedure outlined in (Crislip vs Harshman, 243 Pa Super. 349, 365 A.2d 1260 (1976)), are followed. However with reliance on Choplosky vs Choplosky, 400 Pa. Super. 590, 584 A.2d 340 (1990), and Serger vs Serger, 377 Pa. Super. 391, 547 A.2d 424 (1988).

Father contends that the court may not permit only modify a custody order without having a petition for modification before it. We agree. See also Rosenberg vs Rosenberg, 350 Pa. Super. 268, 504 A.2d 350, 353 (1986), willful **interference** where is the court ordered visitation, no matter how deplorable, cannot be made the basis for an automatic change of custody. Have concluded that the mother's contempt petition and that father did not have noted that custody would be an issue, we conclude that the court committed a clear abuse of discretion in ordering a change in custody. For these reasons, we vacate the orders and resend the 1998 custody order. Orders vacated.

**Fathers rights are protected by liberty interest. The Supreme Court of the United States of America has made plain Beyond any doubt that parents these are for and the right to the companionship, care, custody and management of his child or her child is an interest that is a far more precious than any property right. May vs Anderson, 345 U.S. 528, 73 S.Ct 840(1952). The nature of the parents interest is one's child and relationship of that interest to the constitution of the United States has been articulated on numerous occasions by the Supreme Court.**

Now because of my own attorney orally withdrawing all contempt charges has only complicated matters and allowed issues to continue without being resolved.

Loss of the **First Amendment freedoms**, for even minimum periods of time, unquestionably constitute irreparable injury. Though the first amendment rights are not absolute, they may be curtailed only by interest of vital importance, The burden of proving which rust on their government. Elrod v. Bums, 96 S Ct 2673; 427 US 347, (1976).

**This was the contempt charge hearing there was No petition for modification of a custody filed but yet the contempt charge hearing was converted over to a modification of the current custody order without my knowledge/understanding and proper representation of the matter.**

November 5, 2015, I filed a complaint against the reunification counseling center with the insurance company and with the Pennsylvania District Attorney's office. A letter from my insurance company clearly showed were The reunification counseling center has made a false claim to My insurance company. The reunification counseling center was making claims that I was there for mental treatment which would be false and misleading and they were billing for services that was never rendered.

**There was no mental health treatment ever provided to me by anyone at this reunification counseling center. Therefore this reunification counseling center knowingly and willfully create a fraudulent statements of a diagnosis about me that was submitted to My insurance company so they could financially gain. This reunification counseling center had to paid back all the money to my Insurance Company. My insurance company also referred The psychologist for an investigation to the Pennsylvania department of insurance and the Pennsylvania state licensing board for a proper investigation.**

**November 14, 2015,** The attorney representing The reunification counseling center sent a letter to the Commonwealth of Pennsylvania office of the Attorney General. In this letter clearly indicates that **The conspiracy of the parties in question.** Conveniently The attorney representing this reunification counseling center made claim to many of the earlier deceptions by the parties to use against me. The attorney representing this reunification counseling center Made false claim that I was court ordered to participate in mental health counseling with this reunification counseling center. **This is false and misleading and has no merit. (this is falsification to authorities). I was forced there by fraud in the inducement and was tricked in participating for reunification counseling for my daughter. This reunification counseling center could not get paid by the insurance company for reunification counseling so they created a Bogus diagnosis so they could double bill the insurance company and be used in any custody modification at the courthouse. This was done To discredit me in any custody matters and for retaliation for finding out what they was doing.**

**November 29, 2015,** I sent a rebuttal to the Commonwealth of Pennsylvania Office of the Attorney General. I pointed out all the discrepancies and also requested an answer from the attorney representing the reunification counseling center, no answer was provided.

**December 17, 2015,** A letter from the office of the Attorney General of Pennsylvania shows where the mediation of the parties in their final position. It was also indicated that they are unable to mediate my complaint any further. It was also directed for me to personally file a complaint with the local magistrate district judge. I am low income and can't afford legal counsel to prosecute This reunification counseling center for their deception. Furthermore, why should I have to prosecute this facility for their actions when there is state and local government that are more equipped and financially able to prosecute for the public from facilities such as this. This facility should not be allowed to do this to a parent and get away with it.

**For this entire time I always called my daughter on a daily basis to tell her I love her and miss her every single day. Also requested numerous times to see my daughter over the years. My daughter even request to see me and can be proven that there was no alleged fear in my daughter of me.**



***Supervise visits and reunification counseling was based upon trickery and deception of the actors posing as noble officers of the court. I have only seen my daughter for around 4 to 5 hours in the last three years. The conspiracy to commit fraud of the custody order to make me Pay for services by extortion has become a pattern by and through the actions of the parties to use my child as a kid for cash scheme is appalling and disturbing. What kind of people use parents and children to do this to create conflict and income for themselves.***

Since custody and visitation encompass protect nearly all of what we call **parental rights a total denial of both would be the equivalent of termination of the parental rights.**  
**Franz v. United States, 707 F.2d 582, 602 (D.C. Cir. 1983)**

*During this time I was also sending approximately 38 weekly letters to the President of the United States, Governor Tom Wolf, a representative, a senator and congressman of the severe parental alienation that has kept me held hostage from receiving any remedy of law by the court system.*

***February 1, 2017*** I filed an affidavit in my divorce case and notified every individual that was involved in my case that I will no longer allow this court system or any other individual to use my daughter or myself for any more kids for Cash scheme.

***May 12, 2017*** a United States trustee filed a motion to substitute my ex-wife out in my divorce case and on May 12, 2017 the judge immediately granted the substitution of my ex-wife, That complicating matters even more.

***May 28, 2018*** my ex-wife now reached out to me after many years of me requesting to see my daughter and asked me if we could work things out for the interest of our child to resolve things peacefully so both of us can move on with our lives and not rely on the court system.

Finally **August 8, 2019** The trustee removed himself from my divorce case, now me and my ex-wife was able to finally file a petition to modify custody **September 13, 2019** and I follow all the procedures. I created a stipulation agreement for **50-50** custody for me and my ex-wife and on **September 13, 2019** the judge signed our order of the stipulation agreement for **50-50** custody in Pennsylvania. **Me and my ex-wife also filed a criminal background report that's timestamp to prove that neither of us have any criminal record.**

Now because all the conflict has been removed from the case me and my ex-wife was finally able to sit down and resolve the custody matter and now me and my ex-wife work together for the best interest of our child and we both have 50-50 custody of our daughter.

**Pennsylvania laws involving custody that should be applied in every case.**

In Pennsylvania, both parties have to fill out a criminal record or abuse history and for some reason this isn't happening in Pennsylvania. Whenever there is no criminal abuse history filed on record and when a mediator is involved in the case, the mediator has no way of reviewing a criminal background report because it was not filed or given to the mediator over any alleged Abuse that would require supervised visits and reunification counseling.

Mediators may be unable to properly screen for domestic violence and may overlook many cases in which domestic violence is present without a criminal background report filed on record. This would determine if a parent was fit and able to have 50-50 custody.

In a study of mediation reports in San Diego, researchers found that the mediator only accounted for domestic violence in **43.1** percent of cases where the screening form filled out by the client had an explicit domestic violence allegation.

Mediators also fail to recommend taking custody away from batterers. In the San Diego study, mediators recommended joint custody in **91.4** percent of domestic violence cases, a rate even higher than their average of **90** percent joint custody recommendation for non-domestic violence cases. Even when the father/mother was clearly a perpetrator of abuse, he/she received at least some physical custody in **96.8** percent of cases.



The concept of mediation assumes that cooperation is attainable, there is little to no abuse among the parties, and each party can adequately argue for his or her needs that would allow for 50-50 custody in cases, and would also bring up if any true/false assumptions when Alleged abuse is present.

*Rule 1915.3-2. Criminal Record or Abuse History.*

(a) **Criminal Record or Abuse History Verification.** [The petitioner] **A party must file and serve with the complaint, [or] any petition for modification, any counterclaim, any petition for contempt or any count for custody in a divorce complaint or counterclaim a verification regarding any criminal record or abuse history of [the petitioner] that party and anyone living in [the petitioner's] that party's household.** The verification shall be substantially in the form set forth in subdivision (c) below. The [petitioner] party must attach a **blank verification form to a complaint, counterclaim or petition served upon the [respondent] other party.** Although the [respondent] party served need not file a responsive pleading pursuant to Rule 1915.5, [the respondent] **he or she must file with the court a verification regarding [any] his or her own criminal record or abuse history [of the respondent] and that of anyone living in [the respondent's] his or her household on or before the initial in-person contact with the court (including, but not limited to, a conference with a conference officer or judge or conciliation, depending upon the procedure in the judicial district) but not later than 30 days after service of the complaint or petition.** [upon the respondent.]

**A party's failure to file a Criminal Record or Abuse History Verification may result in sanctions against that party.** Both parties shall file and serve updated verifications five days prior to trial.

(b) Initial Evaluation. At the initial in-person contact with the court, the judge, conference officer, conciliator or other appointed individual shall perform an initial evaluation to determine whether the **existence of a criminal or abuse history of either party or a party's household member poses a threat to the child and whether counseling is necessary**. The initial evaluation required by 23 Pa.C.S. § 5329(c) shall not be conducted by a mental health professional. After the initial evaluation, the court may order further evaluation or counseling by a mental health professional if the court determines it is necessary. Consistent with the best interests of the child, **the court may enter a temporary custody order on behalf of a party with a criminal history or a party with a household member who has a criminal history, pending the party's or household member's evaluation and/or counseling**.

Note: **The court shall consider evidence of criminal record or abusive history presented by the parties**. There is no obligation for the court to conduct an independent investigation of the criminal record or abusive history of either party or members of their household. The court should not consider ARD or other diversionary programs. When determining whether a party or household member requires further evaluation or counseling, or whether a party or household member poses a threat to a child, **the court should give consideration to the severity of the offense, the age of the offense, whether the victim of the offense was a child or family member and whether the offense involved violence**.

(c) Verification. The verification regarding criminal or abuse history shall be substantially in the following form:

(Caption)

#### **CRIMINAL RECORD/ABUSE HISTORY VERIFICATION.**

If you are aware that the other party or members of the other party's household has or have a criminal record/abuse history and failed to do so would cause great harm to the parent and the child

On the website **find Law** describes the Pennsylvania child abuse laws that will protect parents and children from any abuse party.

<https://statelaws.findlaw.com/pennsylvania-law/pennsylvania-child-abuse-laws.html>

## **Pennsylvania Child Abuse Laws**

*Pennsylvania child abuse laws, like the abuse laws found in other states, fall under the criminal or penal code. The crime is broadly defined to include any type of cruelty inflicted on a child, such as mental abuse, physical abuse, sexual assault or exploitation, and neglect. Charges for physical child abuse often include assault and battery. Additionally, child abuse laws include provisions requiring certain adults with access to children (such as teachers and doctors) to report signs of abuse.*

## **Pennsylvania Statutes**

*The state child abuse laws can differ depending on your jurisdiction. Below, you'll find a general overview of Pennsylvania child abuse laws, mandatory reporting requirements, and penalties for failure to report, as this would protect children and parents from any abuse party, this would further strengthen and support to give parents 50-50 custody.*

### **Pennsylvania Statutes Title 23 Pa.C.S.A. Domestic Relations § 6303.**

#### **What Constitutes Abuse?**

*Act which causes non-accidental serious physical injury, sexual abuse/exploitation, serious physical neglect constituting prolonged or repeated lack of supervision or failure to provide essentials of life.*

#### **Mandatory Reporting Required By?**

*Physician, coroner, dentist, chiropractor, hospital personnel, Christian Science practitioner, clergy, school teacher/nurse/administrator, social services worker, day care or child center worker, mental health professional, peace officer, law enforcement official, funeral director, foster care worker.*

#### **Basis of Report of Abuse/Neglect?**

*Reasonable cause to suspect (within their respective training) that child is abused.*

### **To Whom Reported?**

Department of Public Welfare of the Commonwealth.

### **Penalty for Failure to Report or False Reporting?**

Summary offense for 1st violation; misdemeanor in 3rd degree for 2nd and subsequent offenses.

### **Related Statutes?**

Pennsylvania Statutes **Title 18 Pa.C.S.A. Crimes and Offenses § 4304. Endangering welfare of children.**

(a) Offense defined.--

(1) **A parent, guardian or other person supervising the welfare of a child under 18 years of age, or a person that employs or supervises such a person, commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support.**

(2) **A person commits an offense if the person, in an official capacity, prevents or interferes with the making of a report of suspected child abuse under 23 Pa.C.S. Ch. 63 (relating to child protective services).**

(3) As used in this subsection, the term "person supervising the welfare of a child" means a person other than a parent or guardian that provides care, education, training or control of a child.

(b) Grading.--

(1) Except as provided under paragraph (2), the following apply:

(i) An offense under this section constitutes a misdemeanor of the first degree.

(ii) If the actor engaged in a course of conduct of endangering the welfare of a child, the offense constitutes a felony of the third degree.

(iii) If, in the commission of an offense under subsection (a)(1), the actor created a substantial risk of death or serious bodily injury, the offense constitutes a felony of the third degree.

(iv) If the actor's conduct under subsection (a)(1) created a substantial risk of death or serious bodily injury and was part of a course of conduct, the offense constitutes a felony of the second degree.

(2) The grading of an offense under this section shall be increased by one grade if, at the time of the commission of the offense, the child was under six years of age.

(c) Counseling.--A court shall consider ordering an individual convicted of an offense under this section to undergo counseling.

### **Parents rights to raise their children**

In Pennsylvania let's turn our attention to page 66 and 67 of the Pennsylvania Dependency Benchbook Office of Children and Families in the Courts Administrative Office of Pennsylvania Courts. This explains the law on how the court system **should treat parents and has been neglecting parents rights for way too long.**

In Pennsylvania it has been recognized As long term goal is reunification of the parents and children, a parent may not be denied visitation "except where a grave threat to the child can be shown" (In the Interest of M.B., 674 A.2d 702, 705 (Pa. Super. 1996).

This standard reflects the parents Visitation constitutionally protected liberty interest in visitation, and also the significant consideration of allowing a parent to maintain a meaningful and sustaining relationships with his or her child (Id.) (See also In re: B.G., 774 A.2d 757 (Pa. Super. 2001); In re: C.J., 729 A.2d 89 (Pa. Super. 1999)).

Pennsylvania is a jurisdiction that recognizes parental alienation in the case of; W.F.F. v M.G. 115 A 3d 323 (Pa. Super 2015).

The applicable statutory provisions, 23 P.S. §§ 5304, 5310 do not compel the elimination of the substantial change in circumstances requirement. These provisions, as the Superior Court observed, simply permit the lower courts to entertain a petition for modification to shared custody at any time the threshold test has been met. Once the petitioner has established a substantial change in circumstances, justifying a reexamination of the original order,[1] the court is to be guided by the **"best interest of the child"** standard in ruling on the petition for modification. The cogent reasoning employed by the Superior Court on this issue should not be lightly dismissed. See *Karis v. Karis*, 561 Pa.Super. 561, 568-569, 510 A.2d 804, 808-809 (1986). See also *Constant A. v. Paul C.A.*, 344 Pa.Super. 49, 496 A.2d 1 (1985); *Agati v. Agati*, 342 Pa.Super. 132, 492 A.2d 427 (1985).

When parents fall out, children are often **victims** of conflicting **loves**; love sometimes stronger than what their best interests require. Childhood is a small stretch of time in which events and changes can alter life to its last day. Doubtless such loves will foster spurious petitions and unsubstantiated contentions, but they cannot go unheard, as the Act clearly indicates. Courts must remain vigilant, patient, and perhaps even indulgent to such deep human needs. Because we cannot undo the past we must be more careful of the present, all too soon in the life of a child, to be the past. See *Agati* 342 Pa.Super. at 146-147, 492 A.2d at 433-434 (Beck, J., concurring).

A parent's rights to the preservation of his/her relationship with his/her child derives from the fact that the parent's achievement of a rich and rewarding life is likely to depend specifically on his/her ability to participate in the rearing of his/her child.

The Parent's child's corresponding right to protection from interference by the state in the relationship derives from the importance to the parent of the child of being raised by a loving, responsible, and reliable adult. *Franz v. U.S.*, 707 F.2d 582, 595 (9th Cir. 1983); *U.S. Ct App* (1983).

Even The United States Supreme Court has held that parents have a constitutionally protected liberty interest in the care, custody and management of their children.



This can be seen in the case of *Santosky v. Kramer*, 455 U.S. 745, 758-59, 102 S. Ct. 1388, 1397. *“As a general rule, therefore, before parents may be deprived of the care, custody or management of their children without their consent, due process—ordinarily a court proceeding resulting in an order permitting removal—must be accorded to them.”* *Tenenbaum v. Williams*, 193 F.3d 581, 593 (2d Cir. 1999) (citing *Stanley v. Illinois*, 405 U.S. 645, 649, 92 S. Ct. 1208, 1212). *“At the same time, however, the State has a profound interest in the welfare of the child, particularly his or her being sheltered from abuse.”* *Id.* at 593-94.

In the protection of this fundamental right to parents, The parent should be afforded at a minimum the constitutional protections afforded to a criminal defendant who faces the loss of his fundamental loss of liberty in a criminal proceeding.

The permanent risk of loss of the relationship of parent-child is no less devastating to both the child and the parent than the risk of incarceration.

Even Criminals who face incarceration are at least provided a determinative sentence for punishment of their crimes and the ability to rehabilitate no matter the length of sentence.

Parents in Pennsylvania Demands the rights afforded to the fit parent's 50-50 custody of the minor child and should not be any less.

Therefore, Parents in Pennsylvania should have the following:

The right of due process prior to the deprivation of parents' rights.

The right to a jury trial if there are accusations of abuse;

The right to face and cross-examine all accusers, including those reporting abuse or neglect to the state agency for child welfare, *Crawford vs Washington* supreme court rules 9-0, march 8, 2004, supreme court rules that hearsay evidence in child abuse/neglect and domestic violence cases is not admissible. Parents have the constitutional right to confront their accusers under the sixth amendment to comply with the sixth amendment rights in Child abuse/neglect and domestic violence cases.

*Even a Loss of the First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury. Through the first amendment rights are not absolute, they may be curtailed only by interests of vital importance, the burden of proving which rests on the government. [Elrod vs Burns](#), 96 S Ct. 2673, 427 U.S. 347, (1976).*

*Each parent shall have full access to school or medical records of the Child and Shall be equally entitled and is encouraged to participate jointly and medical appointments, parent/teacher conference or back to school nights of the child as well as to attend school performances, sports events or extracurricular activities of the child.*

*Parent's interest in custody of their children is a liberty interest which has received considerable constitutional protection; a parent who is deprived of custody of his or her child, even though temporarily, suffers thereby grievous loss and such loss deserves extensive due process protection. In the interest of [Cooper](#), 621 P 2d 437; [Kansas App Div 2d 584](#), (1980).*

*The right to be provided all evidence, both inculpatory and exculpatory, that is in the hands of those who seek to destroy parents' relationship with the child.*

*Single Parenting Data further supports the parents right to equal parenting in Pennsylvania.*

*According to federal statistics from sources including the U.S. Centers for Disease Control, U.S. Department of Justice and the U.S. Census Bureau, children raised by single parents account for:*

- **63%** of teen suicides;
- **70%** of juveniles in state-operated institutions;
- **71%** of high school drop-outs;
- **75%** of children in chemical abuse centers;
- **85%** of those in prison;
- **85%** of children who exhibit behavioral disorders; and

- **90%** of homeless and runaway children.

According to the American Bar Association, as of 2008, 32 states included “friendly-parent” presumptions as a factor in the analysis of the best interest of the child. Friendly-parent presumptions assume that “in all child custody cases the parent who was the most generous in sharing the child with the other parent would have a greater ability to understand and provide for the child’s needs.

Pennsylvania should be a leader of parents rights as Bills for 50-50 custody have been already filed in:

Alabama, Arizona, Connecticut, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, New Hampshire, New York, North Dakota, Oregon, South Carolina, South Dakota, Texas, Vermont, Washington, West Virginia, Wisconsin and Wyoming.

In a recent article about Kentucky’s shared parenting is working at a phenomenal rate.

People going through a divorce or breakup often face a difficult choice. Should I stay to protect my children or leave to protect myself? No person, mom or dad, should have to face that choice. Fathers are more likely to face another level of issues such as false abuse or domestic violence claims. In fact, Kentucky’s citizens said that false abuse claims were not uncommon “to gain an advantage” in custody cases by **61% to 13%**. Mothers have their own unique issues. If they leave, they may lose custody of what they love most, their children. Additionally, non-custodial moms face the stigma that goes with not being their children’s caregiver.

However, **healthy moms and dads want to be parents after their families end. And, Kentucky recently became the first state to make that easier by passing the nation’s first true shared parenting law.** Shared parenting is defined as joint custody, which is equal legal decision making, and equal parenting time. **Kentucky stated last year what we all know that children need both parents if the adults are healthy. It seems so obvious that it is hard to believe it was truly a bold step.**

Now, the results are in from Kentucky's bold shared parenting step. The year before Kentucky had any shared parenting laws, there were **22,512** family court cases filed. They declined to **21,847** the year the partial shared parenting law began. When the complete Shared Parenting Law took effect in the last 12 months, new cases plummeted to **19,991**. In other words, Kentucky's families filed to sue each other in family court over **11%** less despite the state's population increasing. In comparison, the Center for Disease Control says national divorce cases increased slightly.

The highest conflict cases, those with domestic violence claims, showed a similar **decline**. Kentucky domestic violence claims declined by **248** in 2017 when the partial shared parenting law was enacted. Further, the decline of domestic violence accelerated by **dropping an additional 445 cases as the complete Shared Parenting Law took effect in 2018 versus the prior year**. Debbie Sivils, Director of the Shelter of Hope said, "There has been a drop off in the percentage of new guests with a domestic violence history who have children. The percentage with children has reduced from a majority in 2016 and 2017 to less than a third so far this year."

As survivors of domestic abuse, we want to thank Matt Hale, who led the effort, and the lawmakers who made Kentucky the national leader on child custody issues. No law can control a person and force him/her to never be violent. However, Kentucky's Shared Parenting Law saves parents from fighting just to remain a custodial parent. **It seems so obvious now that if a state does not force parents to fight for their children that they will, well, fight less.**

If Kentucky's new law would have been in place back in 2013, maybe the courts could have prevented parental alienation from happening to me. It's been over 7 years with no contact or communication with 2 of my children and I have a clean record. There is no excuse for this type of abuse to happen. And **our new law will help prevent parental alienation!**", Alexandra Beckman, coauthor of this column recently said.

[https://www.dailyindependent.com/opinion/forum-shared-parenting-law-having-a-positive-effect-on-domestic/article\\_dc94c6ee-d653-11e9-af23-77c5fa97c921.html?fbclid=IwAR2hfqt8441-eanOdp4xTEbu-GmhG5nHXWkhK1Bqj7X8eN4qokQuYC\\_AFjo](https://www.dailyindependent.com/opinion/forum-shared-parenting-law-having-a-positive-effect-on-domestic/article_dc94c6ee-d653-11e9-af23-77c5fa97c921.html?fbclid=IwAR2hfqt8441-eanOdp4xTEbu-GmhG5nHXWkhK1Bqj7X8eN4qokQuYC_AFjo)

*As **The Honorable members of the house judiciary subcommittee on family law** can see there are laws in place to protect children and parents from any alleged abuse party. Sometimes criminal background reports are not even filed by the attorney on record which allow false accusations of abuse to occur like in my case. A criminal background report to be filed before any custody or modification, **it is the law**. But sadly this has been severely neglected in Pennsylvania.*

*Not all parents are bad, please don't punish the good parents and allow this bill to go through as this would be the first step in the right direction for our great Commonwealth of Pennsylvania for our children's future.*

*My daughter and Children in Pennsylvania are the most valuable resource in Pennsylvania and these children need both parents in their lives.*

*I want to show my daughter that there are good people and to give her hope that her future will not be bleak.*

*If Kentucky can do it Pennsylvania can do it too.*

***Wherefore, I pray that The Honorable members of the house judiciary subcommittee on family law** recognizes The importance of HB 1397 which would allow fit parents to have 50-50 custody.*

*Me and my ex-wife want to work together for the benefit of her daughter, we don't want any more conflict and want to live our life in peace, we can prove that 2 fit parents that can work together and have **no criminal record** and we did this together, against all odds.*

*I will also show you a picture of what the court system does to parents, as no parent should ever have to be tortured like I was, so please consider 50-50 custody for fit parents in Pennsylvania before this happens to any other parent.*

***Respectfully submitted***

**By:**

A handwritten signature in blue ink that reads "Timothy M Shilling". The signature is written in a cursive, flowing style with a blue color.

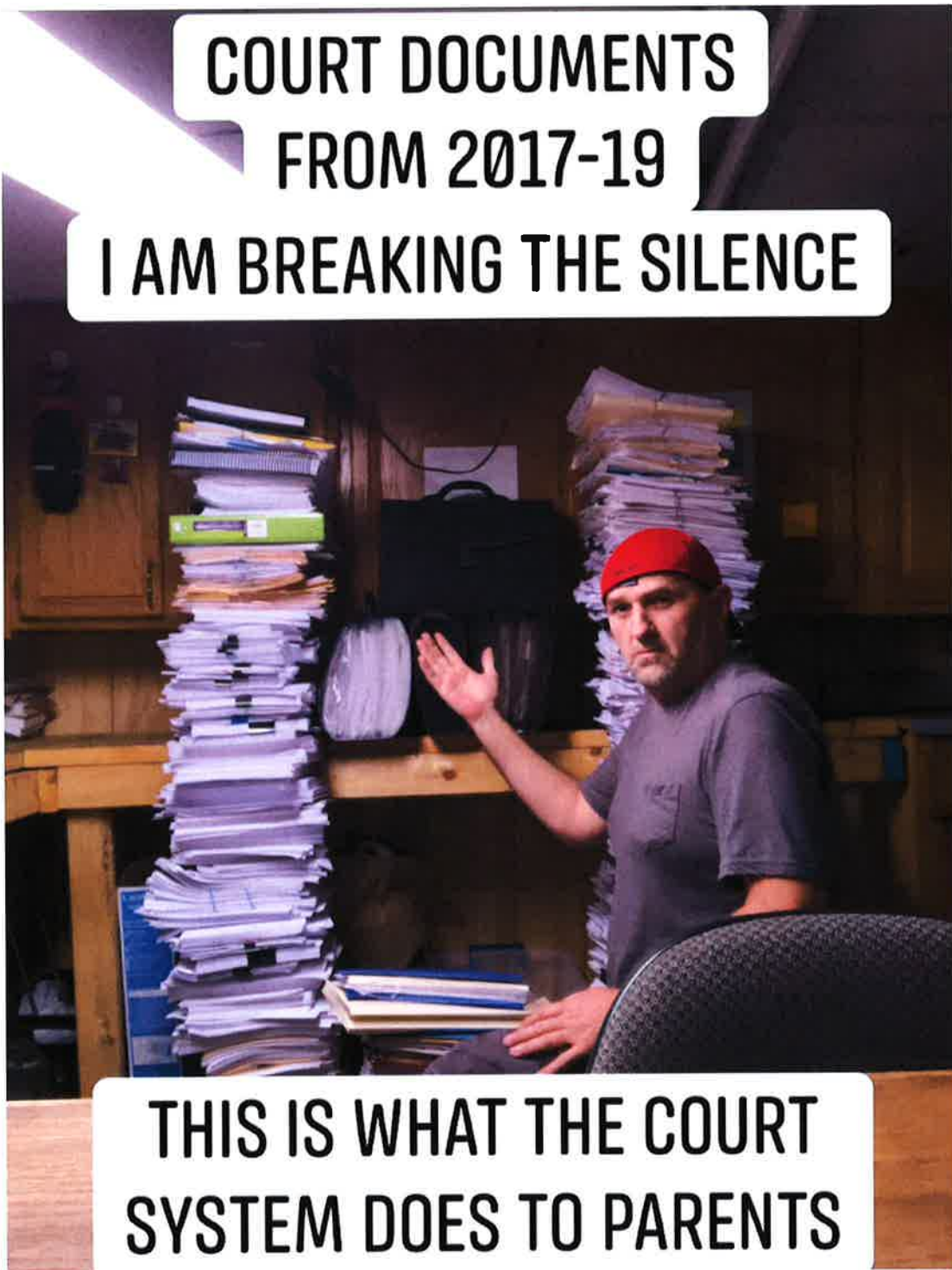
***Timothy M Shilling, Father***

***1203 Philadelphia Ave., Northern Cambria PA 15714. (814-691-5548)***



**COURT DOCUMENTS  
FROM 2017-19**

**I AM BREAKING THE SILENCE**



**THIS IS WHAT THE COURT  
SYSTEM DOES TO PARENTS**

# COURT FILINGS AND CORRESPONDENCE FROM 2013 TO 2016



**In The Court Of Common Pleas Of Indiana County, Pennsylvania**

Timothy M Shilling

Plaintiff/Petition

vs

[REDACTED]

Defendant/Respondent

INDIANA COUNTY  
PROthonotary AND  
CLERK OF COURTS  
2019 SEP 13 AM 10:09

**Petition to modify custody order**

**Now comes**, Timothy M Shilling, pro se hereby files this petition to modify custody order hereby states the following;

1. Timothy M Shilling The petitioner resident at Cambria County Pennsylvania and resides at 1203 Philadelphia Ave. Northern Cambria PA 15714.

2. [REDACTED] the Respondent The resides at Indiana County Pennsylvania and resides at [REDACTED]

3. The petitioner Timothy M Shilling respectfully request that on July 7, 2014 and March 31, 2015 orders was entered for supervised physical custody.

4. A true and accurate copy of the orders are attached.

5. The orders should be modified because the petitioner and the respondent has peacefully came to a consent stipulation agreement of custody matters of shared legal custody and shared physical custody that has been signed by the petitioner and respondent that will be attached thereof.

6. The petitioner and the respondent has attached a copy of the Criminal Record/Abuse History Verification form required pursuant to Pa.R.C.P. No. 1915.3-2.



COPY

1 of 8

7. The court should respectfully hereby excuse each party from appearing in open court for the purpose of entering The within stipulation agreement for custody matters.

**WHEREFORE**, The Petitioner requests that the Court modify the existing Order because it will be in the best interest of the child.

**Respectfully submitted**

By: Timothy M. Shilling Date: 9-12-19.

**Timothy M Shilling, Pro Se**  
1203 Philadelphia Ave.,  
Northern Cambria PA 15714.  
814-691-5548

**In The Court Of Common Pleas Of Indiana County, Pennsylvania**

**Civil Action-Law(Divorce)**

Timothy M Shilling

Plaintiff/Petitioner

vs

Defendant/Respondent

**Scheduling Order Only**

And now on, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_. This matter coming before the Honorable Court upon the Reconsideration of the Petition to modify custody order A hearing on this matter shall be scheduled for the \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_\_. In courtroom No. \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m. Indiana County Court of Common Pleas Pennsylvania court.

**If you fail to appear as provided by this order, an order for custody may be entered against you or the court may issue a warrant for your arrest.**

**You must file with the court a verification regarding any criminal record or abuse history regarding you and anyone living in your household on or before the initial in-person contact with the court (including, but not limited to, a conference with a conference officer or judge or conciliation) but not later than 30 days after service on the complaint or petition.**

No party may make a change in the residence of any child which significantly impairs the ability of the other party to exercise custodial rights without first complying with all of the applicable provisions of 23 Pa.C.S. § 5337 and Pa.R.C.P. No. 191517 regarding relocation.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

**AMERICANS WITH DISABILITIES ACT OF 1990**

The Court of Common Pleas of Indiana County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

Date: \_\_\_\_\_

By the court: \_\_\_\_\_ J



In the court of common pleas of Indiana County, Pennsylvania

Civil Action-Law(Divorce)

Timothy M Shilling

Plaintiff/Petition

vs

Defendant/Respondent

Order of the court

And Now, this \_\_\_\_\_ day of \_\_\_\_\_, 2019 it is adjudicated, ordered and declared that upon consideration of the Petition to modify custody order is hereby granted and the Stipulation custody arrangement between the Mother and Father Shall be entered into effect.

This order shall supersede any other custody order and shall remain in full force and effect until further ordered of the court.

Furthermore The court excuses each party from appearing in open court for the purpose of entering The within stipulation agreement for custody matters.

By the court:

\_\_\_\_\_  
Judge

**Verification pursuant to Pa.C.S.A. Section 102 and Pa.R.C.P.76**

**I verified that statements contained in the foregoing Petition to modify custody order Are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to penalties of 18 PA.C.S.A. Section 4904 relating to unsworn falsification to authorities.**

**Respectfully submitted**

By: Timothy M Shilling Date: 9-12-19

**Timothy M Shilling, Pro Se**  
1203 Philadelphia Ave.,  
Northern Cambria PA 15714.  
814-691-5348

**CERTIFICATE OF COMPLIANCE**

**Docket No.12066 CD 2013**

**I certify that this Petition to modify custody order complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that requires filing confidential information and documents differently than non-confidential information and documents.**

**Respectfully submitted**

By: Timothy M Shilling Date: 9-12-17.

**Timothy M Shilling, Pro Se**  
1203 Philadelphia Ave.,  
Northern Cambria PA 15714.  
814-691-5548

**In The Court Of Common Pleas Of Indiana County, Pennsylvania**

**Civil Action-Law(Divorce)**

Timothy M Shilling

Plaintiff/Petitioner

vs

Defendant/Respondent

**Certificate of service.**

The undersigned hereby certifies that on this day of SEP 12 2019 the foregoing **Petition to modify custody order** has been served upon the respondent listed below in the manner indicated, which service satisfies the requirements of Pa. R.A.P. 121 and 906.

**Service by Hand-deliver.**

respondent will receive a copy of the time stamped copy by the petitioner.

**Respectfully submitted**

By: Timothy M Shilling Date: 9-12-19

Timothy M Shilling, Pro Se

1203 Philadelphia Ave.,  
Northern Cambria PA 15714.  
814-691-5548

In the court of common pleas of Indiana County, Pennsylvania

Civil Action-Law(Divorce)

Timothy M Shilling

[REDACTED]

Plaintiff/Petition

vs

[REDACTED]

Defendant/Respondent

INDIANA COUNTY  
PROthonotary AND  
CLERK OF COURTS  
2019 SEP 16 AM 10:00

Order of the court

And Now, this, 13<sup>th</sup> day of September, 2019 it is adjudicated, ordered and declared that upon consideration of the Petition to modify custody order is hereby granted and the Stipulation custody arrangement between the Mother and Father Shall be entered into effect.

This order shall supersede any other custody order and shall remain in full force and effect until further ordered of the court.

**Furthermore** The court excuses each party from appearing in open court for the purpose of entering The within stipulation agreement for custody matters.

By the court:

/s/ WILLIAM J. MARTIN, PJ

Judge

In the court of common pleas of Indiana County, Pennsylvania

Civil Action-Law(Divorce)

Timothy M Shilling

N [REDACTED]

Plaintiff/Petition

vs

[REDACTED]

Defendant/Respondent

2019 SEP 16 AM 9:59  
CLERK OF COURT

Order of the court

And Now, this, 13<sup>th</sup> day of September, 2019 it is adjudicated, ordered and declared that upon consideration of the Petition to modify custody order is hereby granted and the Stipulation custody arrangement between the Mother and Father Shall be entered into effect.

This order shall supersede any other custody order and shall remain in full force and effect until further ordered of the court.

Furthermore The court excuses each party from appearing in open court for the purpose of entering The within stipulation agreement for custody matters.

By the court:

 Judge

5 of 8



**In The Court Of Common Pleas Of Indiana County, Pennsylvania**

Timothy M Shilling

Plaintiff

vs

Defendant

INDIANA COUNTY  
PROthonotary AND  
CLERK OF COURTS  
2019 SEP 13 AM 10:10

**Stipulation custody arrangement between the Mother and Father**

**THIS AGREEMENT**, made this day of September 12 2019  
**TIMOTHY MARK SHILLING** of Cambria County, Pennsylvania (hereinafter  
referred to as **FATHER** ") and [REDACTED] of Indiana County,  
Pennsylvania (hereinafter referred to as a **MOTHER** ").

**WITNESSETH:**

**WHEREAS**, Mother and Father were married on July 16, 1994; and

**WHEREAS**, certain differences have arisen between Mother and Father, and,  
as a result of which, they wish to live separate and apart; and

**WHEREAS**, Mother and Father have been separated since December 4, 2013  
and have not cohabitated since the date of separation; and

**WHEREAS**, Father filed for divorce December 18, 2013 on three counts,  
divorce, custody and equitable distribution; and

**WHEREAS**, Mother and Father entered into a custody consent order of court  
July 7, 2014; and



**COPY**

1 of 7

**WHEREAS**, Mother and Father on March 31, 2015 entered into an order of the court of various custody matters; and

**WHEREAS**, said Divorce proceeding was, by Agreement of Mother and Father, bifurcated, and the Court of Common Pleas of Indiana County, Pennsylvania, in the proceedings docketed to Case No. [REDACTED] on May 24, 2016, duly entered a Final divorce Decree in Divorce on record May 25, 2016, thereby terminating the marriage of Mother and Father; and

**NOW, THEREFORE**, in consideration of the mutual promises herein contained, as aforesaid, Mother and Father, intending to be legally bound, each covenant as follows:

Mother and Father wish to stipulate this custody arrangement.

**Child Custody And Visitation:**

1. Mother and Father have a custody consent order of the court dated July 7, 2014. **This order will be exhibit A.**
2. There was also a order of Court dated March 31, 2015 over custody related matters. **This order will be exhibit B.**
3. The Mother and Father have decided to mutually work out any child custody and visitation schedules together for the best interest of our child without any further court intervention or modification of the court.
4. Mother and Father are exercising their rights as parents on averment **16 of the custody order dated July 7, 2014 that will be stated as such:**

**Averment 16.** Nothing in this order of court shall limit or restrict the ability of the parties to mutually agree on alternative arguments as the parties are free to modify the terms of this order but they must be in complete agreement to any new terms. The parties are encouraged to be flexible in permitting additional or different custody arrangements to accommodate each parties schedule. Any request for extra custody and/or a different custody arrangement by either parent shall be given with as much advance notice as possible and may be granted upon mutual consent.

**The Mother and Father have a parenting plan in accordance to Pennsylvania rule 5331(c) which the Mother and Father have mutually consented to.**

5.This complete Mutual agreement between Mother and Father are as such;

6.The parties to this matter are the Plaintiff , **Ex-Husband**, Timothy Shilling (father) and the defendant, **Ex-Wife** [REDACTED] (Mother).

7.The child that is the subject of this matter is [REDACTED]  
[REDACTED] 2006 and currently at the age of [REDACTED]

8.Mother and father shall share legal custody of the minor child. Shared legal custody mean shared responsibility for all major decisions concerning the upbringing, education, medical, dental and religious/spiritual care and in matters affecting the general fair of the child including, but not limited to, choice of daycare, choice of or change in schools, choices of positions, participation in extracurricular or sports activities that may be of concern to either parent and other such matters.

9.For the purposes, both parents shall consult one another and confer on matters affecting the general welfare of the child taking into account the best interest of the child, and as far as possible, the desires of the child. Each parent shall have full authority to sign for emergency medical care, school absence and other activities regarding the signature of either parent.

**10.** Each parent shall have the authority to sign for emergency medical treatment and shall notify the other as expediently as possible regarding such medical treatment but shall notify the other as expediently as possible regarding such medical treatment including the same, address and telephone numbers of the medical facility where the child is being treated.

**11.** Each parent shall have full access to school or medical records of the child and shall be equally entitled and is encouraged to participate jointly in medical appointments, parent/teacher conference or back-to-school nights of the child as well as to attend school performances, Sports events or extracurricular activities of the child. Shared legal custody also means that each parent shall be named as an emergency contact with the child school.

**12.** Each parent has the affirmative duty to keep the other party aware and is prohibited by law, appraised of the residence addressed, which includes the street address and telephone number, of the party and the minor child. Mother and father shall discuss and agree upon selected educational institution for the child. Both parties share legal custody, and have mutually agreed to work with one another peacefully and shall assist one another with any Day to Day decisions involving the child.

**13.** Each parent shall keep the other appraised of the minor child's extracurricular and school activity schedules and/or information as soon as possible upon receipt of the schedule and/or information. The parties shall ensure that the minor child attends his/her extracurricular and/or school activities during their periods of time. Each parent may attend and participate in the child's activities/events and may have upon communication with the child during these activities/events.

**14.** Mother and Father shall have Shared physical custody. The right of more than one individual to assume physical custody of the child, each having significant periods of physical custodial time with the child.

Mother and father have mutually agreed to participate in the best interest of our child to set our own parenting time with the minor child.

15. Mother and father have agreed that when the minor child is with the other parent that phone contact between father and mother of the minor child shall be permitted on a daily basis, at reasonable times and shall be encouraged by mother and father.

16. The minor child shall be given privacy (If the minor child wishes) during her communications with mother and father, without interference by any person.

17. If mother or father is not available when the mother or father calls a message shall be left with mother and father and shall encourage a return phone call to mother and father as soon as possible. Both mother and father shall keep the other party apprised of their phone number and if either parties number changes it is the responsibility of the mother and father to notify each other and provide each other with their new telephone number immediately.

18. Mother and father will communicate with one another if there was any relocation that would be necessary in changing any visitations schedule that would significantly impair the ability of the mother and father. If either parent would have to move and change the school district for the minor child or to exceed a 25 mile radius have mutually agreed to work with one another for the best interest of their child in notifying each other in accordance with section 5337 of the Pennsylvania custody act. No relocation shall occur unless (1) every person with custody rights concerns or (2) the court approves the proposed relocation.

19. There shall be no restrictions on Mother or Father to communicate on setting their own schedules for the Mother and Father to have overnight visits with the minor child.

20. Mother and father have mutually agreed over the years to work with one another's ( for the best interest of their child) busy work schedule's Monday through Sunday to accommodate each parent.

**21.** Mother and father have mutually agreed to work with one another over visits of holidays to ensure that each parent has quality time with the minor child.

**22.** Mother has mutually agreed with father for the best interest of the child not to take steps of court intervention/or mortification and have mutually agreed to work out any disagreements mother and father may have with one another without any court intervention.

**23.** Mother mutually agree not to withhold/restrict visitation of the minor child from the father and the father mutually agrees not to withhold /Restrict visitation of the child from the mother.

**24.** This Stipulations Agreement of custody matter supersedes any and all other orders, agreements, either oral or in writing, between Mother and Father hereto.

**25.** The Mother and Father have put their differences aside for the best interest of their child and wish to live their lives in peace.

**26.** This Stipulation Agreement of custody matters are held by this court of competent jurisdiction of Indiana County Pennsylvania.

**27.** This court should not object to this mutual binding Stipulation agreement over custody matters that the Mother and Father have shown extraordinary circumstances for the best interest of their child.

**28.** Mother and Father decided to there live in peace for the rest of their lives, to raise their child without any further unnecessary court intervention.



**And Now** intending to be legally bound hereby, the Mother and Father to this stipulation agreement of custody matters have sent their hands and sealed The day and year as said above.

**Respectfully Submitted**

By:  Shilling .Date 9/12/19.

**Paula S Shilling**  
**351 Harkleroad Clymer PA 15728**  
**814-948-5763**

By: Timothy M Shilling .Date 9-12-19.

**Timothy M Shilling**  
**1203 Philadelphia Ave., Northern Cambria PA 15714**  
**814-691-5548**

IN THE COURT OF COMMON PLEAS OF Indiana COUNTY, PENNSYLVANIA

Timothy M Shilling  
Plaintiff

v.

No. [REDACTED]

CUSTODY

**CRIMINAL RECORD / ABUSE HISTORY VERIFICATION**

I, Timothy M Shilling, hereby swear or affirm, subject to penalties of law including 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities that:

1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. § 6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction, including pending charges:

Check all that apply	Crime	Self	Other household member	Date of conviction, guilty plea or no contest plea, or pending charges	Sentence
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	18 Pa.C.S. § 2702 (relating to aggravated assault)	<input type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	18 Pa.C.S. § 2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>		

1



COPY

Custody Form 3  
Criminal Record/Abuse History Verification  
Pa.R.C.P. 1915.3-2(c)  
AOPC 4.18.16

INDIANA COUNTY  
PROTHONOTARY AND  
CLERK OF COURTS  
20 SEP 13 AM 10:10

 COPY

IN THE COURT OF COMMON PLEAS OF Indiana COUNTY, PENNSYLVANIA

Timothy M Shellen  
Plaintiff

v.

[REDACTED]  
Defendant

No. [REDACTED]

CUSTODY

**CRIMINAL RECORD / ABUSE HISTORY VERIFICATION**

I, [REDACTED] Shellen, hereby swear or affirm, subject to penalties of law including 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities that:

1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. § 6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction, including pending charges:

Check all that apply	Crime	Self	Other household member	Date of conviction, guilty plea or no contest plea, or pending charges	Sentence
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>		
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<input type="checkbox"/>	18 Pa.C.S. § 2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>		

1

Custody Form 3  
Criminal Record/Abuse History Verification  
Pa.R.C.P. 1915.3-2(c)  
AOPC 4 18.16

INDIANA COUNTY  
PROthonotary and  
Clerk of Courts  
2019 SEP 13 AM 10:10

07/19/2019 UPDATED IFP INFORMATION FOR TIMOTHY SHILLING

07/26/2019 RECEIVED QDRO

07/26/2019 RECEIVED QDRO

07/29/2019 QUALIFIED DOMESTIC RELATIONS ORDER DATED JULY 26, 2019 WJM COPY TO TIMOTHY SHILLING AND JAMES WALSH ESQ ON 7/29/19

07/29/2019 QUALIFIED DOMESTIC RELATIONS ORDER WJM COPY TO TIMOTHY SHILLING AND JAMES WALSH ESQ ON 7/29/19

07/29/2019 RECEIVED CONFIDENTIAL DOCUMENT FORM (QDRO)

08/08/2019 SUBSTITUTION OF PARTY FILED ON BEHALF OF JAMES R WALSH ESQUIRE CHAPTER 7 TRUSTEE OF THE BANKRUPTCY ESTATE OF [REDACTED] SHILLING BY K PETAK ESQ

08/08/2019 ORDER WHEREIN [REDACTED] SHILLING IS SUBSTITUTED AS THE SUCCESSOR-IN-INTEREST TO JAMES R WALSH ESQUIRE CHAPTER 7 TRUSTEE OF THE BANKRUPTCY ESTATE OF PAUL SUE SHILLING WJM COPY TO KEVIN J PETAK ESQ JAMES R WALSH ESQ THERESA C HOMADY ESQ TIMOTHY SHILLING AND [REDACTED] SHILLING ON 8/9/2019

08/19/2019 NOTICE JUDGE MARTIN DID NOT ORDER THE PLAINTIFF TO FILE A CONCISE STATEMENT OF ERRORS OF THE RECUSAL OF JUDGE MARTIN AND THE PLAINTIFF DID NOT WAIVE ANY RIGHTS OF THE ISSUES RAISED ON APPEAL UNDER 1925(B)

09/13/2019 PETITION TO MODIFY CUSTODY

09/13/2019 RECEIVED CONFIDENTIAL INFORMATION FORM

09/13/2019 CRIMINAL RECORD/ABUSE HISTORY VERIFICATION - T SHILLING

09/13/2019 RECEIVED CONFIDENTIAL INFORMATION FORM

09/13/2019 CRIMINAL RECORD/ABUSE HISTORY VERIFICATION - P SHILLING

09/13/2019 STIPULATION CUSTODY ARRANGEMENT BETWEEN MOTHER AND FATHER

09/16/2019 ORDER OF COURT DATED SEPTEMBER 13 2019 - IT IS ADJUDICATED ORDERED AND DECLARED THAT UPON CONSIDERATION OF THE PETITION TO MODIFY CUSTODY ORDER IS HEREBY GRANTED AND THE STIPULATION CUSTODY ARRANGEMENT BETWEEN THE MOTHER AND FATHER SHALL BE ENTERED INTO EFFECT WJM COPY TO TIMOTHY SHILLING AND [REDACTED] SHILLING ON 9/16/2019

09/17/2019 ORDER OF COURT WM (2 ORIGINALS WERE MADE OF THIS ORDER - ONE FOR OUR OFFICE AND ONE FOR DOMESTIC RELATIONS PER JUDGE MARTIN)  
(COPIES OF THIS ORDER WERE SENT BACK TO CA OFFICE TO BE GIVEN TO DRS)

September 18, 2019





**PAS Intervention**  
**A 501c3 Nonprofit**  
[www.PAS-Intervention.com](http://www.PAS-Intervention.com)  
[PASIntervetnion@aol.com](mailto:PASIntervetnion@aol.com)  
[Info@PAS-Intervention.com](mailto:Info@PAS-Intervention.com)  
Federal Tax ID: 27-4382600

**C/O Joan T. Kloth-Zanard**  
**MFT, ADA, RSS, ABI, GAL, MDCF, LC**  
Executive Director and Founder  
320 North George's Hill Road  
Southbury, CT 06488  
(203) 770-0318

### **PA HB 1397**

Dear Legislators:

I support PA HB 1397 – a Shared Custody Proposed Bill. As a veteran in this field for over 23 years and vetted expert in custodial interference, it cannot be understated as to the importance of shared equal parenting. As per Laurie Nichols, we both strongly agree that this bill is one of the few ways we have to reset and fix our dysfunctional family courts.

Below is some suggestions and thoughts I share with Laurie and others about this bill.

Presently, in many states there is some serious issues with allowing children under the age of 18 to decide where they want to live and if they want to remove a parent from their lives. This issue creates unnecessary family court turmoil and erosion of families. If we would not allow this to happen in an intact family then why are we allowing this to happen in a divorce family. I call this the Intact Family Rule.

Furthermore, science has taught us the following:

- 1) Children do NOT have the emotional or mental maturity to make such a momentous decision as to remove one parent from their lives.
- 2) Science has further taught us that the human brain does not stop growing until age 25 or 26. And it does not stop maturing until age 35 or 36.
- 3) It is why children are not allowed to vote until age 18.
- 4) It is why children are not allowed to drink or smoke until age 21.
- 5) It is why children are not allowed to rent a car until age 25 or 26.
- 6) Children of high conflict custody cases often have serious emotional and mental delays. They often maybe of a physical age of 13 or 14 but emotionally and mentally are stuck at the age when the custodial interference and abuse began. This means they are not able to make a safe decision about their own future relationship with their other parent.





**PAS Intervention**  
**A 501c3 Nonprofit**  
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- 7) Statistical data also shows that even children of abuse do not remove their parent from their life. My colleague, Linda Gottlieb, worked with over 3000 foster children for 25 years. The one thing that all of these children always asked was "when can I go home?" "when can I see my parent."

How then can we expect a child lacking in all of these necessary emotional and mental skills to be able to comprehend the gravity of removing a parent from their lives just because of a divorce?

I would also like to make a few additional suggestions that Laurie Nicholson has also echoed in her testimony based off of a program I have created and copyrighted called 3 Strikes YOU'RE OUT!! This program allows for only 12 weeks and 3 chances for a parent to comply with the courts orders and to stop impeding in the children's relationship with the other parent. There are many bells and whistles build into this program to assist the professionals and the courts to help recognize when one parent is deliberately impeding a once health relationship between the children and the other parent. In fact, I recently spoke in September at the 3<sup>rd</sup> Annual PASG conference in Philly about it to some 400 plus professionals and parents.

Time is of the essence if we want to stop the ravaging of children and families. The law needs to be changed to protect innocent children from the guilt, shame and lost memories they will have as adults because they did not realize the gravity and seriousness of removing a once loved and happy relationship with the other parent.

Will this stop alienation and custodial interference? Probably not, but it will curb it and help to prevent courts and kids from destroying a once positive relationship with the other parent by not allowing emotionally and mentally immature children from making this mistake.

Please this is one huge step in the process of fixing our family courts.

Regards,

**Joan Kloth-Zanard**  
**MFT, ADA, RSS, ABI, GAL, MDCF, LC**



Testimony in support of equal shared parenting 50/50 proposed PA HB1397

Bill Ayers  
State President  
Pennsylvania Bikers for Justice  
312 Rose Street  
Peckville, Pa 18452  
(570) 209-8472  
[PAbikersforJustice@gmail.com](mailto:PAbikersforJustice@gmail.com)

November 29<sup>th</sup> 2019

To The Honorable members of the House Judiciary subcommittee on family law in Pennsylvania.

Representative Sheryl Delozier, Majority Chair  
Representative Tina Davis, Minority Chair  
Representative Jerry Knowles  
Representative Jonathan Hersey  
Representative Paul Schemel  
Representative Summer Lee

Please accept this testimony for the record of, proposed bill PA HB 139, pertaining to a presumptive 50/50 custody.

My name is Bill Ayers. I am a Graduate of NCCU School of Law and the State President of Pennsylvania Bikers for Justice. I am a constituent of the 112<sup>th</sup> District in Peckville, Pennsylvania.

Pennsylvania Bikers for Justice has members in every district and is dedicated to fighting against injustices.

Pennsylvania Bikers for Justice fully supports Sue Helm's proposed PA HB 1397 and we ask you do the same.

Presumptive 50/50 custody will help protect children from physical and sexual abuse.

After Arizona's successful move to Shared Parenting in 2012 there has been a substantial reduction in cases of physical and sexual abuse against children. This was achieved because shared parenting resulted in the availability of more resources to investigate allegations of abuse and resulted in earlier discovery of signs and/or risks of abuse.

The increase in resources in Arizona to investigate allegations of abuse was the result of a significant reduction in false allegations of abuse. It is well established that false allegations of abuse has become a common occurrence in child custody matters. False allegations cost

investigators and the courts valuable time that could have helped a child who was actually being abused. Furthermore, false allegations has caused police, district attorneys, and Judges to doubt some legitimate allegations of abuse. An example of how false allegations have hindered efforts to protect children was recently seen in Northumberland County Pennsylvania. Arabella Parker was in critical condition and taken to Geisinger Medical Center near Danville after state police say her mother's boyfriend, Jahrid Burgess, 19, brutally beat the child at her home near Trevorton on October 10, 2019. Arabella unfortunately died because of her injuries. This senseless tragedy would have been avoided if the Northumberland County resources weren't wasted pursuing false allegations of abuse and if the investigators had not doubted abuse allegations due to their exposure to numerous false allegations of abuse.

False allegations of abuse has created **"the boy who called wolf affect"** where after so many false allegations, investigators of abuse claims assume a claim of abuse is just another false allegation. Pennsylvania Bikers for Justice has thoroughly investigated the impact false allegations of abuse has had in Pennsylvania. We've discovered that in many cases it has created police officers and CYS investigators to doubt claims of abuse when there is a custody dispute and it has caused prosecutors and judges to be suspicious of many abuse claims. We further discovered that all counties in Pennsylvania lack adequate resources and time to thoroughly investigate all allegations of abuse due to time wasted on investigating false allegations of abuse.

A presumptive 50/50 custody will reduce claims of false allegations by eliminating the motive of a parent to make false allegations. In our investigations we've discovered that motive is to win. In every case in Pennsylvania where a parent has made false allegations of abuse in custody matters there reasoning has been to win. They believe that the child is a prize in a battle and they are willing to do anything to win. This has resulted because of the way Pennsylvania Courts have handled custody matters for decades. The majority of the public in Pennsylvania believe that once a relationship between parents is terminated that they need to battle in court for the child. This type of thinking is very troubling and not in a child's best interest because the child is put in the middle of the battling parents and this prevents the child from having a healthy relationship with either parent. With a Presumptive 50/50 custody co-parenting would be encouraged rather than the bitter feud which has become the norm in Pennsylvania and parents that are co-parenting their children are much less likely to make false allegations against the other parent.

Arizona's shared parenting has also protected children by early detections of abuse. This was achieved due to the 50/50 time children spent with both parents rather than the previous 70/30. In most cases of child abuse, the abuse occurs in the home of the parent with primary custody. When a parent is limited to only seeing a child 30% of the time a child is less likely to tell the parent of the abuse and the parent is less likely to see the signs of abuse. There have been many cases in Pennsylvania where it was discovered that the custodial parent was abusing or allowing a child to be abused while the non custodial parent was unable to detect the abuse do to the limited time spent with the child. An example of this was seen when Shana S. Decree of Bucks County killed her three children, at their apartment in Morrisville, Pennsylvania north of Philadelphia. This tragedy occurred because the father was not able to detect that the mother was an immediate threat because of the very limited time he was allowed to spend with his son. Had he been given 50/50 custody, this tragedy would have been avoided.

Pennsylvania has seen numerous cases of children being physically abused, sexually abused and murdered because of the absence of a 50/50 custody presumption. The legislators should follow the example of the other states that have created a 50/50 presumption to help save children from abuse.

Respectfully Submitted,

Bill Ayers on behalf of Pennsylvania Bikers for Justice

**TESTIMONY IN SUPPORT OF EQUAL SHARED PARENTING 50/50 PROPOSED PA HB 1397**

Pamela Lewis  
8655 Maplecrest Drive  
McKean PA 16426  
[coolitrn@gmail.com](mailto:coolitrn@gmail.com)

November 25, 2019

**To the Honorable Members of the House Judiciary subcommittee on Family Law in Pennsylvania:**

**Representative Sheryl Delozier, Majority Chair**  
**Representative Tina Davis, Minority Chair**  
**Representative Jerry Knowles**  
**Representative Jonathan Hershey**  
**Representative Paul Schemel**  
**Representative Summer Lee**

Hello. My name is Pam Lewis. I am an alienated mother of two children. On the day of this hearing, December 9, 2019, I will have not seen or spoken with my 17-year old twins in 949 days. That is over 2 ½ years.

I fully support representative Sue Helm's proposed PA HB 1397, pertaining to a presumptive 50/50 custody rebuttal, in absence of proven abuse, criminal history or domestic violence and I ask that you do the same. I am in favor of 50/50 equality for parents. Children have the right to love and be loved by both parents.

I simply wanted a divorce. Unfortunately I didn't know how things would turn out and how broken the family court system truly is. Because my husband refused to leave the house or discuss our options, I temporarily left the house on April 24, 2017 to seek counsel in regards to filing for a divorce. Two weeks had gone by and my husband called every day as usual asking me if I was coming home. On Friday May 6, 2017, He asked if I would be paying for the mortgage. When I stated he would be responsible for paying for half of the household expenses, he said, "You will be sorry". Later that day I was served PFA papers claiming that I allegedly abused him and our children for years. My ex-husband intentionally did this to keep me away from our children as a way of seeking revenge for leaving him.

On that day May 6, I never could imagine the long road that I would endure. I was not allowed to see my children or go to my own residence having a sheriff escort me to get my clothes. I had to pay spousal and child support while he lived in the house and he still did not pay the

mortgage for 5 months causing us to go to court to force the sale of the house before it went to foreclosure.

We then went to court for child custody. I thought we would be going to work on a shared custody agreement. The judge was given a letter from my son which he read before the proceedings started. My lawyer and I did not even get to see it until after the hearing. He then took my children behind closed doors and spoke with them for over an hour. He came out and I was told that both my children reported abuse over several years. I was asked a few questions. Even though there were no police reports, emergency room records or any reports or concerns prior to these allegations, my ex husband was granted sole and legal custody of our children. I was told the children were 14 years and could make their own decision who they wanted to live with.

I was beyond words. I went to court thinking family court would be fair and put the best interest of our children first. Why would I not be granted shared custody or shared legal custody? Why would I not even be given the option of supervised visitation? I have no criminal record. I am the one who asked that the children get counseling and to this day my son never went. If I was such a danger to our children, why did my husband not call children services or leave the house? I am the one who left and it took him two weeks to file a report after I left. If this alleged abuse happened why didn't he do anything sooner? Why didn't he even think to seek counseling for the children during these proceedings? Going through a divorce and separation is hard enough for children to endure. If they were allegedly abused, you would think they would need to talk to someone. Even the school has no record or mention of abuse reported to them.

I really thought that the judge in family law would have experience in circumstances such as these false allegations and be able to look at the facts and be objective. I received our custody papers in the mail. The children were ordered to get counseling and talk to me twice a week. This was never enforced. Why didn't the judge request a follow up hearing to get an update?

I have been blocked from social media; I try to text or call my children and their voice messages are full and they have blocked my number from their cell phones. I have sent letters to my ex-husband and left messages with no reply. I still don't understand how I pay child support yet he doesn't have to provide me updates or information about our children. I have to find out they went to the doctors by invoices I receive in the mail as I pay for their health insurance.

My entire family has also been erased from their lives. A once close relationship with their grandmother has now been severed. My son's last words to his grandmother were, "There was a line drawn in the sand Nana and you chose the wrong side". What child says that?

Recently, when requesting a transcript of my custody hearing, I was contacted and said the Judge would not allow me to have the transcripts even though I should have a right to know exactly what I was accused of. I never was given an explanation or letter in the mail explaining why my request was denied.

I have missed out on so many important milestones that I will never get back with my children. I no longer know their likes, dislikes, if they are dating, or what they want to be when they grow up. My son was recently in a car accident and my ex-husband didn't even contact me. I had to find out from a third party. This just doesn't seem right to me nor should it be acceptable.

Family court has ruined my family's lives and is ruining millions of families across the United States, including Pennsylvania. The damage has been done, as Family Court aided in the alienation process of my children, didn't even provide alternatives, and refused to follow the law. Please note I am a working nurse and have no criminal record and possess all my PA Clearances. I was a nurturing, devoted and loving mother.

Everyone makes mistakes in life, but that doesn't mean they have to pay for them the rest of their life. Sometimes good people make bad choices; it doesn't mean they are bad, it means they are human. Children need to know they have another parent who loves them, other family who love them and want to be a part of their lives. Family law should encourage communication, and allow both parents to raise their children equally. If one parent refuses to follow the law, they should have consequences that are enforced by family court.

I know I am just one voice. There are no words for what it feels like to live each day not knowing where your child is and if they are doing ok. So many parents should not have to endure chronic grief and mourn the loss of a child who is still alive. So many children should not have to miss out on having both parents in their lives. I appreciate you taking the time to hear my story.

I hope that you would consider making a difference that will impact so many lives for the better. People and laws won't change without your support and approval of this bill. We need to see a change.

Respectfully submitted and testified,

*Pamela A. Lewis*

Pamela A. Lewis





***Staff and Officers***

*Mark D. Roseman, Ph.D.*

*Founder, Executive Director*

*Margaret Wuwert*

*Secretary*

*Claire Berkoff*

*Regional Coordinator, South Florida*

*Paula Duncan*

*Regional Coordinator, Central Florida*

December 3, 2019

Dear Subcommittee of Family Law of Pa House Judiciary:

My name is Dr. Mark Roseman. I am the CEO of the Toby Center for Family Transitions, Inc. which I founded in South Florida in 2008. My program centers around the needs of families, when parents choose to separate, whether they are single, separated, just divorcing or never married.

Though I cannot stand before you now, I permit this letter to be provided the legislative members considering this important bill.

The program I operate at the Toby Center, is a national model for serving the divorcing population and their children, with locations across Florida. An educator, I have worked with children and parents since 1998. I served as an advocate for joint custody and served with David L. Levy, Esq, President Emeritus of the Children's Rights Council (CRC) in Washington, DC. In 2002-2008, I served as Assistant Director for

You should all give sincere thoughtfulness to the outcomes of your deliberations and actions now. For the emotional wellbeing of all Pennsylvania's children is now on each of your shoulder's.

I wish you all a long moment of reflection on what you each wish for as it may impact your own immediate family.

With much appreciation,

Mark Roseman, Ph.D.

*Mark Roseman*

Dr. Mark D. Roseman, CEO

Child Custody Consultant, Divorce Coach

The Toby Center for Family Transitions

100 E. Linton Blvd., Suite 104B

Delray Beach, FL 33483

[www.thetobycenter.org](http://www.thetobycenter.org)

Author, Preserving Family Ties, An Authoritative Guide to Understanding Divorce and Child Custody (WestBow Press, 2018)

Available at Barnes and Noble and online at Amazon.com. Spanish edition forthcoming.

Host, Preserving Family Ties Program on Facebook Live, Preserving Family Ties Facebook Page, Sundays 5-6pm EST

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Direct 561-244-0010

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House Judiciary Public Hearing on House Bill  
1397, Equality in Parenting Time  
Subcommittee on Family Law  
Room 60 East Wing  
Harrisburg, PA 17120  
Monday, December 9, 2019  
Written Testimony submitted by  
William P. Eckenroth III, of Lebanon, PA

I would like to start off by thanking Chairman Sheryl Delozier, Chairman Tina Davis and Honorable Susan Helm for the opportunity to submit Testimony, in support of HB 1397.

I believe that the best chance a child has for success in this life, is to have continued and equal time with both parents. Denying time with a parent causes continuous Trauma to the life of the child and the life of the loving parent.

With that said, I experience Trauma daily, wondering and worrying about both of my daughters and not understanding why I am being denied time with my own children.

I have a daughter who is now 13. Her mother married a violent abuser, 10 years ago. He has been convicted of abusing the mother. He has put bruises on my daughter, several times. Every time I reached out to the justice system, to protect my daughter, my custody time ended up being reduced more and more. The mother of my child has always defended the abuser.

The week of Thanksgiving 2019, my 13-year-old daughter told me her stepfather told her he's going to slit her throat, burn her clothing, punch her in the face and throw her and her mom out of the house.

The police were notified. My daughter will not give a statement to the police and my daughter does not have her mothers support. My daughter believes everyone will blame her, if the stepfather goes to jail. My daughter has been conditioned to accept a life of chaos, just like her mother, and I am being denied an opportunity to provide any type of normalcy in my daughter's life.

I have another situation which is also incredibly difficult to talk about. I have a daughter who was born in October. To this day, the mother has not notified me of the birth of this child. I have no way of contacting her except through a attorney.

November 26, 2019, marked one year since I told my girlfriend of 6 months that the relationship was over and to move out. She moved in the day she met me, she was pressuring for marriage, pressuring me to buy her a million-dollar farm and sell my house. She was paying most of my bills, buying me expensive gifts and she had just stopped birth control. She was setting a trap to force her own agenda.

She wouldn't leave. I completely cut her off from sex. She began the process of selling the house she bought 1 year prior. I couldn't stop her. She had an agenda of control and force and she took what she wanted, when she wanted it, including sex, against my will. I became a prisoner in my own home.

She became pregnant. I had a deep love of this child the day I learned of her. I did not want to be separated from this child and I did not want to have a broken family, again.

I now had to learn to love this woman and to forgive her for what she had done to me to become pregnant. I needed time. She did not have time. She ran me into the ground mentally, physically and emotionally. I was suffering.

A few months into the pregnancy, she decided it was time to destroy me. She took an above and beyond course of actions to destroy me, beginning with a failed PFA. She had her day in a Lebanon County Courtroom, dressed in her Military Uniform, with a pregnant belly and she could not convince a Judge that I did anything at all to her. The PFA was dismissed by the Court.

That is just the tip of the iceberg of her destruction. Her blind obsession to trap me, force a pregnancy to force a marriage, had now shifted into a blind obsession to destroy me, eliminate me and deny a child a Father.

I have now learned that the National Guard approved her transfer, from the Lebanon Unit, to a Unit over 3 hours away. The National Guard has not reached out to me to ask how the transfer would affect the child's relationship with her Father. My 13-year-old daughter is suffering, from being denied a sibling.

My life has been altered forever. My children mean everything to me. The best interest of the children and the parents, in the Commonwealth, will be best served by passing HB 1397.

Thank you for allowing me to share my story.

William P. Eckenroth III

December 2, 2019

Dear Honorable Members of the Judicial Committee,

My name is Gemma Bryant and I respectfully write to you today to not pass H.B.1397. The bill is extremely premature and will not make any change to the law as is. In fact it could cause more harm than good. Much of the bill is primarily a modification of wording of meaning which is already intended within Title 23 Chapter 53 concerning custody. The problem plaguing most of unjust custody cases are accountability. The courts and child and youth should be held accountable for their errors in judgement which result in the many unjust outcomes we see in custody cases today. No parent should be restricted from parenting their child unless that parent is proven beyond a reasonable doubt, with valid and concrete evidence, is a harm to that child. Too many times does the fit, genuine, and loving parent have their rights severed before they walk into the courtroom. Too many times does Child and youth allow for children to remain in clearly abusive and neglectful homes while taking them from nurturing, safe homes (depending on the case and evidence of course). The problem is not within the verbiage of Title 23 Chapter 53 but in the lack of enforcement and lack of accountability to the judges who pass down judgments favoring the abusive parent. I have witnessed first-hand a judge who made a slanderous and unjustified ruling based on a parent's testimony simply because he is the former boss and colleague of the lawyer of the testimony he favored so much without any evidence to back his ruling.

Attempting to remove the words "partial physical custody," "primary physical custody," and "sole legal custody" is an error in itself as not all parents should retain a 50/50 platform when they are abusive and do not have the best interest of the child at heart. Furthermore as for equal parenting time, it is not realistic (not for physical custody). The child or children will be residing with one of the parents the majority of the time due to aspects like school. It would not be in the children's best interest to bounce from home to home then school to school simply to allow equal physical parenting time. Most parents do not live in close proximity. Another point is that while one parent may have primary and one partial, that is still shared custody. However shared custody in aspects of both physical and legal should be automatic unless one of the parents, again is proven to be unfit. The modification of words within this bill does not bring back the children that are currently kept from parents nor does it give concrete grounds to automatic shared custody. My husband has no decision making in concerns to his children because the court gave sole legal custody to his ex with no evidence or explanation as to why he should not be able to participate in decisions concerning his children then is treated as a mere title in the process instead of the father he is. So what does H.B. 1397 do for parents like him and for children like his who are suffering from parental alienation, physical abuse, and neglect? The answer is nothing.

I ask you, each of you, to see this bill for what it is and not push it for what it's not. It is NOT a shared parenting bill. It is NOT new legislation. It needs far more work to even be considered such. It doesn't stop the injustice from happening. What this bill does is simply make things "sound" better. As a stepmom, a wife, and a fighter for justice, I ask you please do not pass this bill. Children and parents are suffering in this system and this brings no relief. Don't give children and parents false hope by a mere change in vocabulary. Let's use this to work toward a real change that is just and help all of us to have a reason to have faith in what is now a broken system. Thank you.

Respectfully,

Gemma Bryant

**Mike Fink**

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**Subject:** FW: HB 1397 SHARED PARENTING

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**From:** Tamara Sweeney <tgsyb@yahoo.com>  
**Sent:** Thursday, December 5, 2019 7:30 PM  
**To:** Mike Fink <Mfink@pahousegop.com>  
**Subject:** HB 1397 SHARED PARENTING

Hello

My name is Tamara Gerstemeier Sweeney, I am supporting the bill. Not sure what you need from me. Our non profit 501 c(3) is all about parental alienation <http://www.lovedominates.com>  
I have not had relations with my children in almost a decade.  
Let me know what else you may need from me

Sincerely,

Tamara Sweeney  
<http://www.lovedominates.com>



## Mike Fink

---

**From:** Tamara Sweeney <tgsyb@yahoo.com>  
**Sent:** Thursday, December 5, 2019 5:29 PM  
**To:** steven.burda.mba@gmail.com; Mike Fink  
**Subject:** Re: Please do support Presumptive Shared Parenting HB 1397.

Steve I have not had time to do anything. Did I miss deadlines. What do I need to submit?

[Sent from Yahoo Mail on Android](#)

On Thu, Dec 5, 2019 at 10:39 AM, Steven Burda  
<steven.burda.mba@gmail.com> wrote:

Good morning,

Please **do** support Presumptive Shared Parenting **HB 1397**.

This is a good one for the children AND their parents.

Please let me know what else I can do to help you and get the needed support of others!

Have a good day!

**Father of 5 great kids in shared parenting.**

Steven Burda  
1171 Thrush Ln  
Audubon, PA 19403  
Montgomery County, PA

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2019&sInd=0&body=H&type=B&bn=1397>

**TESTIMONY IN SUPPORT OF EQUAL SHARED PARENTING 50/50 PROPOSED PA HB 1397**

Shelley Thompson-Ochterski  
111 Pine Tree Lane  
North East, PA 16428  
814-873-1807  
kdtchr@icloud.com

December 5, 2019

**To the Honorable Members of the House Judiciary subcommittee on Family Law in Pennsylvania:**

**Representative Sheryl Delozier, Majority Chair**  
**Representative Tina Davis, Minority Chair**  
**Representative Jerry Knowles**  
**Representative Jonathan Hershey**  
**Representative Paul Schemel**  
**Representative Summer Lee**

Please accept this amended testimony for the record, of proposed PA HB 1397.

My name is Shelley Ochterski. I am an alienated mother of two children. I am a constituent of Erie County, PA.

I fully support Representative Sue Helm's proposed PA HB 1397, pertaining to a presumptive 50/50 custody rebuttal, in absence of proven abuse, criminal history or domestic violence and I ask that you do the same.

I am in favor of 50/50 Equality for all parents. Children have the undeniable right to two parents after all each child is a part of both parents and sees themselves as such. As each child grows into an adult and becomes a parent themselves one day, its important that SHARED CUSTODY becomes the "norm" in our society, absent of abuse, criminal record or domestic violence.

I would never want another child to be severed from a loving, fit parent, as my two children have been. Because of poor attorney advice and never wanting the children to have to appear in court and "choose" the courts and my ex-husband have severed ties to a once joyful and healthy parent relationship. Court orders written by the GAL and the Judge have not been

upheld or enforced the Court. I would never want another child to experience what my two children have, as they have been used to hurt me and placed in the center of litigation when nothing else got to me. Litigation which continues today. I am also ordered to pay substantial child support and carry all the children's insurance. For a child I don't see, and my ex-husband refuses to tell me anything about his activities and life... is this in the child's best interest?

What I experienced with in the family court was an extenuation of domestic violence. The courts allowed not only myself, but my children, to suffer and the continued abuse; legal, financial, emotional, mental, physical. Countless court orders were never upheld or enforced, most recently the Judge ordered both parents to therapy to work on communication and reunification. After months of attending and getting nowhere the Doctor wrote a letter to the court recommending specialized reunification. The Judge asked my attorney to submit an unfiled motion and to send it to the opposing attorney as well. I believe this to be unorthodox and a violation. The Judge then files that we have taken too long to file an unfiled motion. We have filed another motion, but the Judge has not responded. I ask, what can be done? Absolutely, nothing, the family court and Judges are not accountable.

Had the court immediately awarded 50/50 as in the proposed, our family would not be in this position today. This will have lifelong implications for all of us.

**Pennsylvania is a jurisdiction that recognizes Parental Alienation. Please refer to following case: [WCF v. MG, 115 A. 3d 323 - Pa: Superior Court 2015](#)**

**Parental alienation** describes a process through which a child becomes estranged from a parent as the result of the psychological manipulation of another parent. The child's estrangement may manifest itself as fear, disrespect or hostility toward the parent, and may extend to additional relatives or parties. The child's estrangement is disproportionate to any acts or conduct attributable to the alienated parent. Parental alienation can occur in any family unit but is believed to occur most often within the context of family separation, particularly when legal proceedings are involved, although the participation of professionals such as lawyers, judges and psychologists may also contribute to conflict.

"Induced parental alienation is a specific **form of psychological child abuse**, which is listed in DSM-5, the current Diagnostic and Statistical Manual of the American Psychiatric Association (APA), under diagnostic code V 995.51 "**child psychological abuse**". Untreated induced parental alienation can lead to long-term traumatic psychological and physical effects in the children concerned. This fact is still not given enough attention in family court cases" My ex has gotten our son's psychiatrist to write the court a letter stating a child should not be forced to see mother. However, the doctor will not include the above diagnosis for my son, but he clearly skirts the issue. He even states he know absolutely nothing about parental alienation.

As of the date of the upcoming hearing, Dec 9, 2019, I have not seen or spoken with my now 16-year-old son in 4 years, not even an email or text.

I do see my now 20-year-old daughter when she is able to sneak to see me. She is tracked by her father and gets in trouble if he finds out.

I HAVE A SHARED CUSTODY ORDER. My son attends school in the district where I live not where he lives. TIME CAN NEVER BE MADE UP! All important milestones have passed. All holidays and birthdays have past. Imagine not even being able to send any mail or packages, call, text or even email your child, as the co parent blocks all contact, despite telling the courts otherwise. This is what has been done to my family, as the courts have allowed this situation to spiral out of control. Shared 50/50 would not apply to my case or any other "alienated" parent unless there was strict accountability and punishment on the abuser, ultimately, a reversal of custody, after repeated violations of existing order(s). Implementing strict, to the letter guidelines; that once the orders are violated, I am suggesting a loss of custodial time and mandated therapy for the parent who chooses to violate that said order. This would be in the "best interest" of a child, as this continued chaos and manipulation creates unnecessarily stress and anxiety on child(ren) involved. My daughter has been diagnosed with epilepsy brought on by stress and my son with severe anxiety and social anxiety.

**Shared 50/50 would be ideal for 2 fit loving parents, absent of abuse, neglect or criminal convictions.**

I am a kindergarten teacher and a foster parent. The parents of my foster children are afforded time with their "removed" children and I have been treated as a criminal. I hold a current criminal record check, abuse history and FBI clearance, according to **PA Rule 1915.3-2**, it would prove, without a doubt, I have a clean record.

I should begin by stating that I am in favor of shared parenting when it involves two **FIT** parents, with emphasis on the word **FIT**. Our custody arrangement began as 50/50 per the father's wishes despite it following two CYS referrals against Father by reported inappropriate touching from our son. Father proceeded to violate that Order 21 times in the next 1.5 years and our son was being negatively affected. As a result I filed for primary custody and we had a custody evaluation completed. During that time Father was claiming that I was attempting to alienate him despite it being Father engaging in those behaviors. I was awarded primary physical custody in 2012. Following this change in the Custody Order, Father increased his alienation efforts and our son began making very disturbing statements like, "you're going to jail, "dad says mom deserves to be in hell," etc.

The Father and I were working with a co-parent coordinator for two years attempting to create a parallel parenting plan to address the ongoing issues with co-parenting and Father violating the Court Order. After 10 months, Father refused to sign the Parallel Parenting Plan. The co-parent coordinator decided to meet with the child for the first time and he presented concerns to her that resulted in my filing for sole legal and physical custody with supervised visits for Father. The sole legal custody was based on multiple issues of Father failing to properly care for the child during medical needs and refusing to agree to appropriate and recommended treatments for the child. At that time we had a third custody evaluation with the original evaluator. He concluded in his evaluation that despite Father continuing to claim that Mother was attempting to alienate the child from him that there was no evidence of that alienation, however there was evidence that Father was attempting to alienate Mother.

Following that hearing in Sept. 2014, I was awarded full legal and physical custody of my son along with a finding of Contempt against Father after two experts testified to the mental and emotional abuse that was inflicted upon our son by his Father. Father was permitted to have supervised visitation, however he was found in Contempt of the Court Order again and then committed a felony related to our case so the supervisor suspended supervised visits and required that father get a complete psychological evaluation and meet some additional objectives to resume supervised visitation. Father took 18 months to request resumption of the visits, the supervisor indicated that too much time had passed and that he had not met her requirements so she thought the Court should decide if contact was to resume. Supervised visits occurred from Jan. 2017-Sept. 2017 when the reunification counselor resigned, indicating that she believed the child needed a break (as the visits were causing him significant distress). So visits were suspended while we sought a new reunification counselor. Against the agreement reached by the attorneys, father made initial contact with the proposed counselor and then sent her documents that was supposed to occur from the attorneys. She chose not to get involved in the case citing that there was a history of boundary issues and concerns that could continue to be an issue with Father. Father's attorney petitioned the Court to resume visits and the Judge stated they should resume without ever having a hearing as to why they were stopped or from the mental health professionals who were advising that it was not in the child's best interest. The Judge continued to deny a hearing and ignored an Emergency Petition that my attorney filed in January 2018 to address the concerns for the child.

Father's attorney filed contempt against me for not resuming the visits and the Judge scheduled a Contempt hearing for 3/27/18. My attorney advised that I should allow visits to resume since the Judge was threatening jail time for contempt even though I have never violated a Court Order. So we told the child visits were going to resume and asked what help he needed for him to be more comfortable during the visits (he had shared with his therapist how he was feeling during the visits). He also began telling me, "I want to see my dad, but my body is uncomfortable." He mentioned this repeatedly over several weeks. The supervised visit was set to occur on Sunday evening 3/18/18 and on that day the child exhibited very non-functional behavior for several hours. When asked what was happening for him so that we could figure out what he needs to have a good visit with his dad, he disclosed inappropriate touching by his father and indicated that it happened frequently over the course of a few years. He disclosed to his trauma specialist as well as his pediatrician who both filed reports with Childline.

CYS interviewed the child and determined they would be conducting a full investigation. My attorney contacted the judge's office and asked for a phone conference with father's attorney and the judge regarding the upcoming hearing and requesting a continuance until CYS completed their investigation. Father's attorney indicated that he had witnesses who rearranged their work schedule to testify on 3/27/18 so he would like for them to still testify. According to my attorney, the judge's response was, "That's fine. There won't be any prejudice given to which witnesses testify on that date and those who don't since I'm not going to do anything because I don't want to interfere with the CYS investigation. The record will remain open." My attorney indicated that she would only be bringing the CYS caseworker to testify to an

open investigation since it doesn't make sense to bring the mental health professionals until we know the outcome of the investigation.

At the hearing, the reunification counselor testified that she last had contact with the child and this father in June of 2017 prior to her resignation in Sept. 2017 so it had been about 9 months since she last saw the child. The father's therapist testified to how much better father was and there were no existing issues. My attorney cross-examined her and asked if she was aware of the 3 violations of the Court Order that father engaged in the Fall of 2017 after the supervised visits were suspended and she responded that she was and they spoke about those extensively. The Judge took a brief recess and then called the CYS caseworker into his chambers independently of the parties' attorneys. Then requested the attorneys after sending out the CYS caseworker. He returned to the bench and indicated his concern about the conflict in this case and the "perception" of possible influence upon the child regarding the allegations and possible alienation (of which there has been NO evidence/testimony ever provided!). He ordered CYS to take full physical and legal custody of the child for 2 weeks until the child completed the forensic interview at the Children's Resource Center.

Two days later I was informed by the CYS caseworker that there was a hearing on 4/3/18 which was required by federal law for CYS to outline the plan for the child. The CYS caseworker also indicated that although these hearings are usually held in their office with a hearing master that the custody judge indicated that he was presiding over this hearing. I was informed by an attorney that CYS must prove that I am unfit or abusive to retain my son in placement. They did neither at the hearing. The CYS caseworker testified that he visited my home and it was neat and clean and no concerns with abuse. However, the Judge still ruled that CYS met the threshold of Dependency to keep the child retained. The Judge added that both parents were to get a psychological evaluation before he would re-evaluate the child's placement. The psychological evaluations were completed by the same psychologist, which resulted in an extremely negatively biased report towards me. The psychologist misquoted me along with both of my therapists in ways that aligned with the outcome CYS was implying – **that I influenced my son's opinions about his father despite the fact that the psychologist never spoke with the child or his therapist of 4.5 years to determine if he even had negative opinions of his father.** The psychologist drew conclusions that have no supporting evidence in the report. Both of my therapists indicated that they felt distressed after speaking with her and that she was asking leading questions towards a preconceived agenda. The CYS caseworker was quoted as saying he **"heavily influenced that evaluation."**

So I obtained a second opinion, which unfortunately wasn't completed prior to the next hearing date of 5/8/18. The outcome of that psychological evaluation was significantly different than the first. It was far more comprehensive as well as more accurate. We arrived for that hearing and the Judge took the GAL and the Solicitor for CYS into his chambers **independent of the parties' counsel for 30-40 minutes.** The attorneys were then called into chambers and were told what decisions had been made. My attorney emerged and motioned me to follow her. We went to a room where she could privately tell me that my son was not returning home, despite the GAL and CYS caseworker both providing that indication to the child prior to the hearing, and the fact that the requirements of Dependency Law still had not been met. She also indicated that the abuse allegations were unfounded based on the perception that I influenced my son to make the allegations, **again with no evidence, and they were making recommendations from the original psychologist's reports even though they weren't bringing her to testify or be cross-examined.** CYS was setting objectives that I needed to obtain a new psychologist, but father could retain his therapist, and that father and I needed to participate in family therapy together to learn how to communicate better about the child and create 50/50 custody agreement by the 3 month review. Neither of these objectives are appropriate for the custody circumstances that have existed for the past 7 years, of which **CYS has no knowledge. However, the Judge accepted their "recommendations."**

At the 4/3/18 hearing, CYS was to obtain a psychological evaluation for the child that was not able to be scheduled until 6/5/18. The report for that evaluation was issued to the parents on 7/18/18. The reports identifies no symptomatic behaviors by the child of alienation towards the father, which the Judge indicated concerns about without any evidence ever presented to that effect, and results of an objective trauma assessment of the child with indicators of potential childhood sexual abuse.

I began supervised visits at the YWCA on 3/26/18, which continued at 4 hours/week. Father began supervised visits on 5/18/18. **Our son's behaviors drastically changed and continued deteriorating since the contact with his father began.** The YWCA indicated concerns that the CYS caseworkers ignored. On 5/25/18 my son was abruptly removed from my friend's home as his foster placement due to a missing physical form for the foster father that the adults failed to communicate in order to locate. **Rather, CYS removed the child on an "emergency" basis and notified me the following day that they moved him to his father's sister's home, the house where some of the abuse occurred.** Father and his sister and brother-in-law then violated the Court Order for the next 3 consecutive weeks by giving the father access to the child outside of the approved YWCA supervision. CYS did nothing in response. **The child's behavior continued to deteriorate** and he began reporting inappropriate comments by his paternal aunt that were negative towards me. CYS saw this in the YWCA reports and also has had no response despite the fact that the child was being subjected to the same mental and emotional abuse by the paternal aunt that he previously endured from his father.

My son stated repeatedly for 7 months that he wanted to return to our home and that I have done nothing wrong, yet it fell on deaf ears with CYS and the GAL. I have not been found in Contempt or unfit or abusive and yet CYS had my son in a foster placement for 11 months while permitting me only 4 hours/week of supervised contact despite more than a dozen supervisors appointed by CYS reporting no concerns with the interactions between me and my son. Despite identified concerns from the supervisors since supervised visits began with Father, CYS moved the child into live with his Father 7 months into the Dependency. This all occurred 3 weeks before the 7th hearing, 8 months into the Dependency, the first time that I was permitted to testify and present a single witness. I was denied due process and the requirements of the Dependency law were never met. I petitioned to have the Judge recused since he is no longer in the Family Division, he did not meet the requirements for a Judge presiding over Dependency cases, and he continually denied me due process.

Significant concerns emerged shortly after the child was placed to live with father. The supervisor of my visits who was appointed by CYS met with CYS about her significant concerns and CYS' response was to tell my supervisor to alter her reports and bribe her **"to write her reports the way they want them written."** My attorney filed an Emergency Petition over these concerns and that was ignored, and on 12/27/18 Father was given full legal and physical custody. My time remained at 4 hours/week supervised despite the passing of 9 months and no concerns identified. The child then began refusing visits with me without giving any reasonable explanation so I saw him about 2 hours during the month of January. At the end of January I met with three staff members from the DHS to express my concerns over the unlawful handling of my case by CYS. On Feb. 14, 2019, five days prior to the next hearing, I was suddenly permitted to see my son unsupervised and for any amount of time. CYS ended the Dependency at the very next hearing on Feb. 19, 2019, however with Father retaining full legal and physical custody.

Father has continued to violate the Court Order as well as engage in the psychological abuse of alienating our son from me. Evidence of this has been presented to the Court, however, the Judge continues to hold private chambers meetings not on the record, despite my opposition to them, and indicate outcomes that would be unfavorable to me if the parties **can't reach our own agreement. We began a 50/50 schedule in August 2019. Our son's behaviors continue to deteriorate** except when we are out of town together, then he is fine. He exhibits textbook symptoms of a child being alienated by one parent against the other, but more concerning is that he has continued to demonstrate the indicators of a child who has been sexually abused. The pediatrician was finally permitted by the Judge to testify uncensored (she was censored by the Judge in the Nov 2018 hearing) on June 6, 2019 and she identified in sworn testimony the detailed disclosure the child made to her. The Judge sent the child home with his Father that same day. Additionally, in our most recent **"hearing"** date of Nov. 26, 2019 there have been about 23 instances of Father violating the Court Order just since June 6, 2019, 5 months. The Judge stated in yet another private chambers meeting that he isn't finding anyone in Contempt. So **why have a Court Order and why is this Judge on the bench if he's not going to enforce Court Orders that he signs into existence?** This gives Father free reign to continue using the child as a weapon against me and abusing him.

My son disclosed abuse by his father and in 16 dates of hearings no evidence has ever been presented of ANYTHING I have done to lose custody of him. There is ample documentation to support his disclosure of abuse by his father having



occurred by multiple professionals in addition to documentation of concerns by numerous third parties over the past 8 years. CYS did not speak to anyone except the child, mother, and father, excluding the mandated reporters, as part of their "thorough" investigation. I have been denied due process throughout the past 18 months by the Judge denying my witnesses, not permitting my testimony, holding chambers meeting with attorneys that are not on the record, etc. The 5/8/18 "hearing" was decided in chambers with only the Judge, CYS Solicitor, and GAL participating, and then returning to the courtroom to "put it on the record," by allowing the CYS caseworker as the only witness. The YWCA reports from supervised visits for both mother and father indicate the ongoing pattern of behaviors and concerns of the child when contact with father occurs. Father has continued to violate Court Orders which has been an ongoing issue and the child was not in an emotionally safe placement with his paternal aunt, but CYS continued to ignore all of these transgressions. After the child became more vocal during my supervised visits at the YWCA, CYS issued new "rules" prohibiting the child's speech, which is a violation of his Constitutional rights, and "rules" that the YWCA supervisors had not seen for any other case in over 11 years. CYS expended more time and energy trying to cover up doing the wrong thing than any time it would have taken them to do the right thing for this child and instead continue to keep the child in harm's way.

CYS has been cited by DHS for multiple violations in this case, however, they failed to identify that a proper abuse investigation was never done according to the law and their own policies. Page 2 of the 2015 Correction Plan for Dauphin County CYS states that they must obtain medical records. Additionally, DHS staff indicated that they spoke to the Judge during their investigation, however never to the mandated reporters that were never contacted. The psychologist for CYS also had a private meeting with the Judge in Jan. 2019 despite the fact that he was a witness in this case. CYS closed the case on 5/8/18 as unfounded and requested medical records on 6/25/18, 7 weeks after the fact even though the pediatrician was one of the referral sources whom they also never spoke to. So as a result, the Judge has proceeded in this case forcing a 50/50 custody schedule and identifying that the parties need to attend family therapy to learn to communicate better about the child. So I'm expected to sit in a room and learn to communicate better with the man who molested our son and who continues to psychologically abuse him in his alienation efforts against me. No one should ever be put in that position and that is NOT an appropriate resolution to abuse.

**While I agree and support shared parenting in most cases, I implore you to emphasize the word FIT parents in the writing of this law as well as insure that Judges are adequately trained to not simply assume that abuse allegations in high conflict cases as always false allegations. Sometimes the high-conflict is BECAUSE of abuse and no child should ever be put through what my son has been put through after having the courage to disclose that his father molested him. The very people charged with protecting children have failed him over and over and have added trauma upon trauma for this child.**

It is no longer acceptable for people to continue uttering how "broken" the system is for children. It is dysfunctional and by most accounts that is purposeful due to the billions of dollars it generates for the legal profession and state agencies. Our children should not be used as a commodity for the legal system or the state run agencies that exist to PROTECT children. I have thousands of pages of documentation to support my testimony and numerous witnesses that has not been permitted to be presented in court hearings. I also have spoken with County Commissioners, DHS, the Inspector General's Office, the DA's Office, the Attorney General's Office, the Auditor General's Office, the Governor's Office, the Judicial Conduct Board, and have contacted several state lawmakers and filed an Appeal to the Superior Court in my efforts to protect my son, all to no avail despite several of these personnel indicating that they will stop at nothing to protect children in Pennsylvania. That simply hasn't been true for my son.

Respectfully submitted,



Tricia M. Fisher  
Dauphin County

## To PA Subcommittee on Judiciary Family Law:

I support PA Bill HB 1397 for 50/50 Co-Parenting where there are **two fit** parents involved who cooperate for the best interest of the child. However, when one parent's sole purpose is to destroy the child's relationship with the healthy/loving parent, as an extension of domestic violence, by using the child/children as a weapon to destroy the other parent, the alienating/abusive parent should receive **at best** limited supervised visits.

Alienation is extremely destructive and is causing severe lifelong emotional and psychological harm to children, which also negatively affects the children's physical health for a lifetime.

In many cases, alienated child/children block all forms of communication with the healthy/loving parent and may never see the healthy/loving parent again despite an award of 50/50 custody. The child is taught to refuse contact with the healthy/loving parent while the alienator denies any responsibility for the child's behavior. Alienating parents do not act in the best-interest of the child.

A parent who uses alienation as an extension of domestic violence possesses obvious traits of a severely personality disordered person (Usually Cluster B Personality – diagnosed or undiagnosed). Children do not just discard a loving parent and the entire side of the loving/healthy parent's family unless they have been forced into a loyalty conflict by the alienating parent. The alienating parent uses **cult-like programming techniques** which include manipulation through fear and intimidation, badmouthing the other parent, denigrating, demeaning, and devaluing the other parent, instilling fear and hate for the other parent without justification, undermining authority of other parent, smearing the other parent, and telling outright pathological lies about the other parent including false allegations and false narratives. This in effect brainwashes the child against a healthy/loving parent and causes that child to ultimately reject the fit parent in favor of the unfit alienating parent. The child is made to feel shame, guilt, and that he/she is a disappointment to the alienating parent when he/she does not comply with the alienator's demands until the child can no longer resist or bear the abuse and is forced into submission.

In a situation with an obsessed alienator, the child eventually loses the sense of self and reality and becomes an extension of the alienator. The targeted parent has been so debased, demeaned, and devalued by the negative programming from the alienating parent that the child eventually becomes very hostile and abusive toward the healthy/loving parent and refuses to spend time with that loving parent. It is extremely damaging to a child to lose his/her healthy/loving parent as well as the entire side of the extended family of the healthy/loving parent including aunts, uncles, cousins, grandparents, etc. (ref. Adverse Childhood Experiences/ACE Study).

In order to protect the child/children from this psychological manipulation and abuse, limited supervised contact or no contact at all with the alienating parent and alienated siblings (who are an extension of the alienating parent) would be in the best interest of the child.

In addition, where there is obvious alienation by a parent, the child's testimony (which is given under duress, coercion, undue influence, intimidation, and false beliefs) **must be deemed invalid** as should the child's stated desire to be in the alienator's custody.

Alienating behavior **should not and must not continue to be rewarded**. This type of behavior, which causes a child/children to reject their healthy parent, must be recognized for what it is – **SEVERE EMOTIONAL and PSYCHOLOGICAL CHILD ABUSE** and **ongoing domestic violence** for which there must consequences.

It is a fact that there are cases where children are placed in the custody of the alienator/abuser where the alienator/abuser goes so far as to kill the child and himself/herself to punish the other parent and make them suffer. We must protect the children and the healthy/loving parent from these horrific outcomes. For the reasons specified above, the alienator/abuser should not be given any custody and should be allowed only limited supervised visitation at best. This is the only way to stop further alienation and help the child to heal from the damage that was already done and to stop any further damage to the child.

It is time for the courts, the mental health community, Child Protective Services, and law enforcement to be **trained to recognize** this type of child abuse so that it can be detected and punished for what it – severe emotional and psychological abuse, which has been shown to be every bit as harmful as sexual and physical abuse by the ACE Study. In fact, schools should also receive training in parental alienation.

Parental alienation is a family crisis issue of epidemic proportions that cannot be corrected until it is recognized and understood for what it is. **Parental alienation is a human rights issue, a child protective issue, and domestic violence issue**, and it is happening in epidemic proportions throughout the United States and worldwide.

**It is time for the State of Harrisburg to mandate the Court, legal personnel, the Mental Health Community, Child Protective Services, everyone involved in making these critical custody decisions, as well as law enforcement personnel, and school counselors to receive mandatory continuing education on this type of child abuse and domestic violence where the child/children are used as pawns and weapons in a war against the healthy/loving parent who is terrorized because he/she cannot rescue the child/children from the damage being done to them. In fact, I recommend that the topic of Parental Alienation be taught in schools and colleges.**

**This must stop now.** The lives of children and the targeted healthy/loving parents (and their extended family members; e.g., grandparents, aunts, uncles, cousins, and siblings) are being destroyed. Target parents as well as alienated children have committed suicide because of the damage that this form of abuse causes. **Research shows (ACE study) that adults who were alienated as children suffer from alcoholism, drug addiction, depression, anxiety, sleep disorders, health problems, relationship problems, and even suicide.**

**It is time to do what is truly in the best interest of the child/children.** The time is **NOW** for the legislature, the Courts, legal staff, the mental health community, Child Protection Services, everyone involved in making decisions in these high-conflict divorce custody cases, etc. to **understand and to recognize the emotional and psychological child abuse** being inflicted on the child/children and the target parent that **has been for way too long wrongly packaged as being "in the best interest of the child,** when it is in **no way "in the best interest of the child."**

This horrific issue of alienation of a child from a loving parent and family by an alienating parent is a national and international family crisis emergency that cannot wait.

**The time is NOW to do what is really in the best interest of the child/children.** Where alienation is obvious, the courts must recognize alienation, and it must be punished. The time is **NOW to stop this abuse** of the child/children and the loving parent and the extended family.

Thank you in advance for your attention to this matter.

Lucille DePhillips