

2 pages

**MARY ANN KIRKPATRICK**  
Attorney at Law

Old Post Office Building, 941 Federal Court  
Meadville, Pennsylvania 16335  
(814) 337-7662

May 21, 1990

Mr. Ken Suter  
House of Representatives  
P.O. Box 195  
Harrisburg, PA 17120

Re: House Bill 1290

Dear Ken:

I had hoped to be able to come to Harrisburg for the hearing on House Bill 1290, on May 24, 1990. However, it appears that I will not be able to make it. So I will send you some comments.

With this letter I am forwarding to you letters from William Pineo, Child Custody Mediator for Crawford County; John Fuller, Child Custody Mediator from Crawford County; and the Honorable P. Richard Thomas, President Judge of Crawford County.

I think the major concern that all of us have with House Bill 1290 is the potential impact on the "sanctity" of the family. As things stand now, a parent can turn to others for help when needed without creating equal status on the part of the person who gives the parent a hand. Under House Bill 1290 any time a parent has to turn to a grandparent, a friend or a relative for more than casual baby-sitting the danger of "psychological parent" is raised. As things currently stand, third parties must show that the parent cannot do the job before the third party could prevail in a custody action. Under House Bill 1290, third parties would be in exactly the same position as the parent. Thus it becomes extraordinarily risky for any parent to turn for help. Since parents have no idea when the crisis comes that they are risking creating one or more other people with status equal to their own there will be no protection for the needy parent.

Just this past week I had the exact problem in my practice. A very young mother was going through a hard time and wanted to accept the offer of a nice older couple to look after her little boy for her for several months. I felt constrained to caution her, although, I thought the plan was clearly in the child's best interest. On the other hand, there is simply too much danger that the kind, helpful older couple will take a fancy to the youngster. Under House Bill 1290, they will be able to claim psychological parent status and force the use of a best interest test in making a future custody determination. The older couple, quite naturally, can offer the child far more in the way of material comforts, maturity, stability and


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so on. The young mother will lose. Thus, in order to protect her from the ravages of House Bill 1290, I had to tell her not to accept the offer, but to continue to patch things together and manage as best she can without the help.

This experience and the grave concerns of our county's two mediators and President Judge have led me to the position that House Bill 1290 should not become law in Pennsylvania.

Thank you for this opportunity to review the Bill.

Sincerely,



Mary Ann Kirkpatrick

MAK/lms

Enclosures

MAY 10 1990



JUDGES CHAMBERS  
THIRTIETH JUDICIAL DISTRICT OF PENNSYLVANIA  
COURTHOUSE

P. RICHARD THOMAS  
PRESIDENT JUDGE

MEADVILLE PENNSYLVANIA 16335-2696

TELEPHONE  
(814) 336-1151, Ext. 298

May 8, 1990

Mary Ann Kirkpatrick, Esquire  
Attorney at Law  
941 Federal Court  
Meadville, Pennsylvania 16335

Re: House Bill 1290 - Psychological Parent

Dear Miss Kirkpatrick:

I have reviewed the proposed legislation expanding the parental interest in a child to real or imagined "psychological parents". While there may be rare circumstances where the best interest of the child would be served if former paramours, live-in boyfriends, rent sharing partners and roommates of the same sex were accorded some interest in the child, I see more potential danger than benefit in this proposed legislation.

As you are well aware, we now are required to virtually cut the child into pieces when both parents separate and demand "shared custody". With the recent granting of rights to grandparents, we seemingly are going to create an even larger pool of "interested persons" whose demands for a piece of the child are grounded on legislation and not good court discretion. I note that even great-grandparents are going to be accorded a part of the child custody and visitation action in the proposed legislation.

In summary, I recommend we not adopt this legislation, and leave the rights and interest of "psychological parents" to sound court discretion under the wide variety of circumstances that are bound to arise.

Yours truly,

A handwritten signature in cursive script, appearing to read "P. Richard Thomas".

P. Richard Thomas

PRT/ml

# Prather, Prather & Pineo

791 North Main Street  
Meadville, Pennsylvania 16335

Frank D. Prather 1907 - 1980

Mark D. Prather  
William Pineo

*2 pages*  
Area Code (814)  
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May 7, 1990

Mary Ann Kirkpatrick, Esquire  
Old Post Office Bldg, 941 Federal Court  
Meadville, PA 16335

Dear Attorney Kirkpatrick:

Thank you very much for your letter of April 27 covering the copy of Pennsylvania House Bill 1290.

I do not think that expanding the numbers of people who have standing to demand custody of a child is a good idea.

The definition of psychological parent would be so broad in application as to include paid care workers, very distant relatives, and mere friends. Consider the case where a young child's mother has died. In such cases, the father is often hard put to arrange for the child care for his young family. In order to do so, he may have to make a series of temporary arrangements including perhaps boarding the child with neighbors, relatives, and so forth. If he later succeeds in winning himself a new wife, it would be in the best interest of the entire family if it could be left strictly alone so that the new relationships can develop. The same considerations obtained when the parties have divorced and remarried. However, the proposed act would give all of the prior child care providers, with whom the child had actually been said to reside, the right to disturb the family by suing for custody or visitation rights.

The assembly's inclusion of the words "would not interfere with the parent-child relationship" are not a safeguard, and may be, in application, a contradiction to the purpose of the act. The authority of a parent over the child is a strong factor in the feelings of responsibility which a parent has toward a child. Presumably, an action for visitation against the parents would not have been brought by the "psychological parent" unless the parent had refused to allow the child to visit the complaining party to the latter's complete satisfaction. When the Court overrides the parent's decision, it necessarily weakens greatly the parent's sense of authority over the child and therefore, his or her feelings of responsibility and support. Those feelings are often as important during the child's adult life as they were during the child's minority. It is a strong parental bond that compels a person to mortgage his or her house so that his or her child may attend Harvard Medical School, for example. This is not something that is done by mere pals.

In short, the bill enlarges the right of the Courts to interfere with the privacy of families. I am sure that it is well-intentioned, but the best thing that the commonwealth can do to encourage the functioning of intact families is to leave them alone except when clear and compelling circumstances require intervention.

Very truly yours,

PRATHER, PRATHER & PINEO

A handwritten signature in cursive script, appearing to read 'William Pineo', written over the printed name.

William Pineo, Esquire

WP/slc

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FULLER, KINNUNEN, PETRUSO & GAMBLE

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JOHN FULLER  
VICTOR J. KINNUNEN  
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ANN HANSEN GAMBLE  
GARY A. FABIAN

May 8, 1990

CHARLES L. BLYSTONE  
(1921-1974)  
J. PERRY ECKELS  
(1891-1987)

Mary Ann Kirkpatrick  
Attorney at Law  
Old Post Office Building  
941 Federal Court  
Meadville, PA 16335

Re: Pennsylvania House Bill 1290

Dear Mary Ann:

With regard to House Bill 1290, I would say initially that I would be opposed to enlarging the number of people who can bring custody proceedings. We have an increasing number of cases being brought by grandparents. Some of these seem to be as a result of hostility between grandparents and parents.

It seems as if many foster parents would qualify as "Psychological Parents" and I am not sure I would be in favor of them initiating custody proceedings.

I haven't heard the pros and cons so the above constitutes an initial negative reaction to the Bill.

Yours truly,

  
JOHN FULLER

JF:gis