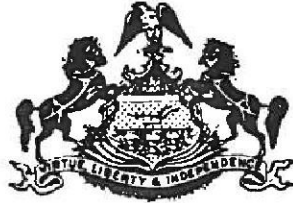


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JUDGE'S CHAMBERS
COURT OF COMMON PLEAS
PITTSBURGH, PA. 15219

EUGENE B. STRASSBURGER III
JUDGE

May 17, 1990

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Hon. Thomas R. Caltagirone, Majority Chairman
House Judiciary Committee
Room 214, South Office Building
Harrisburg, Pennsylvania 17120

Dear Representative Caltagirone:

Thank you for the opportunity to address my concerns relating to H.B. 1290. I believe that my predecessor as Administrative Judge of the Family Division, Judge R. Stanton Wettick, Jr., had previously expressed some concern with a prior similar bill. I share those concerns.

In my view this bill attempts to fix a situation that is not broken, and will create many serious problems in the process. Pennsylvania courts today are properly obligated to consider a "psychological parent" in the award of custody.

What concerns me about this bill is the definition of psychological parents as well as the standard the bill creates for dealing with custody issues involving the psychological parent.

The definition seems overly broad -- one year for a child under three and two years for an older child. There is no requirement that the "psychological parent" has been the primary caretaker of the child. Furthermore, the bill would permit foster parents to be considered as equal to the natural parents where the child has been in placement for as short a period of time as one year. I am deeply troubled by the effect this would have on the goals of our Juvenile Court system of attempting to reunite families wherever possible.

Hon. Thomas R. Caltagirone, Maj. Ch.
House Judiciary Committee
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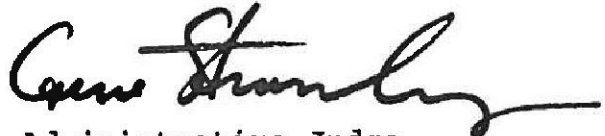
This ties in with my second major objection, that the "psychological parent" is considered in §5303(b) to have no higher burden than a natural parent. Case law has always required a non-parent to meet a higher burden than a parent. To do otherwise would move this country in an alarming direction and raise serious constitutional questions. I suggest that considering the foster parent who has had a child for a year on a par with the natural parent raises the specter of taking children from the poor and giving them to the rich.

Moreover, the new rights granted to the psychological parent would result in much confusion for the child and natural parents. Are the non-custodial parent's rights to be lessened because a step-parent is now seeking visitation or partial custody? There are only four weekends in a month.

I point out further that the bill creates the opportunity for considerable misuse of the custody process. Unfortunately some custody claims are made today merely as leverage in economic matters. This bill would multiply the opportunities for such activity. Step-parents who under the law have no duty of child support would be able to seek custody or partial custody merely because they lived with the parent for a year or two. To the economically disadvantaged spouse, these claims always present a serious problem.

I regret that previous engagements make it impossible for me to appear on May 28th. I hope my absence will not be construed as a lack of commitment to the position I have espoused, and I urge that this bill be defeated.

Very truly yours,



Administrative Judge
Family Division