

**TESTIMONY OF ANDREW R. VOGELSON, PH.D., BEFORE THE
PENNSYLVANIA HOUSE JUDICIARY COMMITTEE ON SENATE BILL 431,
SEPTEMBER 17, 1991.**

INTRODUCTION

I am Dr. Andrew Vogelson. I am a licensed psychologist in the Commonwealth of Pennsylvania, specializing in helping people deal with issues around divorce adjustment, particularly child custody determination and grandparents' visitation. I am approved as a neutral professional for assisting the Court in custody cases by the Family Law Committee of the Montgomery County Bar Association. I have testified as an expert in custody before courts in Philadelphia, Montgomery, Bucks, Delaware, Lackawanna, Pike, and Blair Counties.

I am testifying in support of Senate Bill 431. I would also like to make several suggestions for modification of the Bill.

**SUGGESTIONS REGARDING GRANDPARENTS' OR GREAT-GRANDPARENTS'
VISITATION**

There is agreement in the professional literature that fostering the relationship between children and grandparents is generally in the children's best interests. Grandparents may contribute to child development through their direct caregiving interaction, by providing stimulation and nurturance, and indirectly as a social support to the parents.

Pennsylvania law recognizes that some factors might interfere with the continuing relationship of children and their grandparents. These include when one parent dies, or when parents divorce. Where there has been a good grandparent-child relationship in the past, or when the child has resided with the grandparent for an extended period, but there is now resistance on the part of a parent to support the continuation of the relationship, Pennsylvania Courts are now mandated to review situations and make rulings, using the "best interests" of the child as the key concept.

In certain circumstances, fostering the grandparent-child relationship may not be in the child's best interests. These include when the grandparents' behavior or attitudes are inconsistent with acceptable child caregiving practices,

or when there is significant conflict between the grandparents and the child's parent or parents. Under these circumstances, the potential benefits may well be slight. If severe intergenerational conflict exists, regular contact between grandparent and child may even be harmful to the child.

In my professional experience, certain cases which get to the stage of litigation between parents and grandparents fall into that category where one must seriously question whether visitation will be in the child's best interests, or will only further involve the children in the adults' conflicts. That does not mean to say that in cases where there is conflict between parents and grandparents visitation should be denied categorically. Each family must be considered individually.

I have evaluated several families where a parent has died and the surviving parent remarried. These cases got to the point of litigation, in my opinion, because the grandparents (who were the parents of the deceased parent always) had difficulty accepting the restructuring of their grandchildren's families, and the addition of a step-parent. They feared that their own child, the children's deceased parent, would be replaced and forgotten. I felt for these grandparents, but could also recognize that their behavior was undermining the relationships of the children and their primary caregivers, their parents (biological, step or adoptive). Examples might include saying to the grandchildren "You can never be happy after your mother dies", or repeatedly comparing a step-parent to the child's deceased parent. In these, and other intergenerational conflicts, family counseling may be ordered by the Court, and may be helpful in reducing the basis for these conflicts, thus permitting the resumption of grandparent-grandchild visitation.

When parents and grandparents are unable to agree on a reasonable visitation schedule, the services of a qualified, independent mental health professional should be encouraged strongly or ordered to assist the Court in gathering and evaluating relevant data.

The Courts face a delicate balance in attempting to recognize the emotional needs and legal rights of children, their parents and grandparents. The relationship between children and grandparents is generally a valuable one. However, care must be taken to assure that if the Court is to be supportive of this relationship for a particular family, it not result in interference with the parent-child relationship. Children look first and foremost to their primary caregiving parent or parents for guidance and support in their development. This relationship should not be undermined.

SUGGESTIONS REGARDING CHILD CUSTODY DETERMINATION

Pennsylvania statute notes that child custody should be what is in the "best interests" of the child, not interfere with the parent-child relationship, and assure a reasonable and continuing contact of the child with both parents following marital separation or divorce. It also supports sharing the rights and responsibilities of child rearing by both parents. However, unlike a number of other states, relevant criteria to be considered in determining the most appropriate custody arrangement are not specified.

Psychological research, writings and professional experience suggest a number of important factors which, if considered, would increase the probability of developing a custody arrangement that would foster a child's development optimally, and assure the most reasonable continued relationship between the child and both parents.

Many of these criteria are known by judges and mental health professionals who conduct child custody evaluations for the Courts. However, without clear standards and criteria, inadequate evaluations are at times conducted, and, I fear, Judges may not always attend to all the factors we have reason to believe may be highly relevant in determining the best custody arrangement for a child.

Based on a review of the mental health and legal literature, and personal experience, I would suggest the following criteria for consideration in custody evaluations and Court determinations:

1. Each parent's sense of responsibility to the child.
2. The mental stability and psychological adjustment of each parent.
3. The love, affection and emotional ties between the child and each parent.
4. Each parent's capacity and disposition to provide the child with love, affection and guidance concerning physical, emotional, moral and educational development.
5. Each parent's capacity to provide the child with food, clothing, shelter, medical and remedial needs.
6. The length of time the child has lived in a stable, satisfactory environment, and each parent's ability to maintain continuity in the child's relationship to peers, school and relatives.
7. The permanence of each parent's home as a family unit.

8. The moral character of each parent.
 9. The physical health of each parent.
 10. Each parent's willingness to support the child's continuing relationship with the other parent.
 11. The parenting skills and sensitivity of each parent.
 12. The parents' anger toward each other, and their ability to separate these feelings from their parenting behavior and attitudes.

 13. The biological relationship when one parent is a step-parent or adoptive parent; also considering the length of time each parent has resided with the child, and each parent's involvement in caregiving.
 14. Keeping siblings together.
 15. The child's wishes, considering the child's chronological age and emotional maturity.
 16. The child's psychological adjustment in the present residential or custody arrangement.
 17. Any other factors deemed relevant in a particular family situation.
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If parents are not able to agree on a reasonable custody arrangement, the Court should strongly encourage or order the appointment of a qualified, independent mental health expert to gather and evaluate the data concerning both parents and children needed to make a considered recommendation on custody.

Thank you for giving me this opportunity to comment on Senate Bill 431, which is an important one for the children, parents and grandparents of the Commonwealth of Pennsylvania.