

**TESTIMONY OF**  
**THE PENNSYLVANIA COALITION AGAINST DOMESTIC VIOLENCE**

**HOUSE BILL 826**  
**House Judiciary Committee Hearing**  
**May 6, 1993**  
**Harrisburg, Pennsylvania**

**Offered by:**

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## GREETING

Good afternoon. It is a privilege for the Pennsylvania Coalition Against Domestic Violence to offer this testimony on behalf of abused children and protective parents. We commend efforts to insure child protection, and are confident that the testimony today will greatly inform the development of laws related to child abuse.

This testimony examines both provisions contained in House Bill 826. Following the Introduction and overview of Family Violence and Abuse, I will address alleged false allegations by protective parents, and will follow with an analysis of alleged false reporting by children themselves. We appreciate the opportunity to present our perspective and encourage this Legislature not to pass House Bill 826 because of its chilling effect, but rather to allow the necessary access to courts and investigative agencies to protect abused children.

## INTRODUCTION

No valid proof exists to support the assertion that "the abuse issue has reached a stage of mass societal hysteria" as reported by Allegheny County Coroner, Dr. Cyril H. Wecht, at a similar hearing held last Thursday in Pittsburgh. Despite his assertions, and those of many others, the incidence of the false reporting of child abuse and child sexual abuse is not of crisis proportions. There is no question that the majority of child abuse allegations concern intra-family violence. Opponents of child protection unjustly accuse children and their caretakers (usually mothers) of falsely accusing adult male relatives (often fathers) of child abuse and child sexual abuse.

Although there has been an increase in the number of custody and post-divorce allegations of child abuse, and particularly sexual abuse, over the last decade, there is no reason to believe that there has been an increase in the percentage of false allegations. In fact, according to one study, the percentage of false allegations in custody cases is no higher than the percentage of false allegations in other contexts. (Sexual Abuse Allegations in Custody and Visitation Cases, 1988; hereinafter referred to as Sexual Abuse Allegations Project). Further, Priscilla Chenoweth agrees that there are the same number of substantiated child sexual abuse allegations in custody disputes as there are in non-divorce situations, and goes on to emphasize that when allegations are found to be untrue, they are rarely fabricated in a vacuum, but are usually grounded in some honestly-held, though erroneous, belief (Chenoweth, P. 1988). Finally, although allegations are on the rise in custody and post-divorce litigation, those allegations still arise only in a small fraction of such disputes, less than 2% according to one study (Thoennes, 1988).

Representative Birmelin's bill would make it a crime to intentionally make a false report of child abuse and would also make it a crime to persuade a child to make false allegations. The reason for this proposal is because some people believe that false allegations are rampant and that children manufacture child abuse. Before making any final decisions on this matter, the Legislature should examine the alleged problem from two perspectives: first, false reports by caretakers, then false reports by children themselves. But first, the Legislature must hear that violence against children has reached crisis proportions. One study shows that there was a 36% increase in the killing of children in the years 1985 to 1989, and there is no reason to believe that these numbers are going down. This Legislature must take a pro-active stance to provide the greatest protection to children at risk.

## FAMILY VIOLENCE AND ABUSE

According to Dr. Roland Summit, a leading expert in the field, "sexual abuse is anything but exotic or rare. It is an everyday-sort of experience for hundreds of thousands of children in every economic and cultural sub-group in the United States." (Summit, Roland, Ph.D.)

Whether the incest victim is either male or female, the offender is more frequently the father, or step-father. (Summit, at 119; Swink and Leveille, at 120). A common pattern among families in which incest occurs is a rigidly patriarchal family structure and a mother who is powerless and often abused herself. (Sultan, 1984).

Men who batter their wives are likely to assault their children. The battering of women who are mothers usually predates the infliction of child abuse (Stark & Flitcraft, 1988). At least half of all battering husband also batter their children (Pagelow, 1989). The more severe the abuse of the mother, the worse the child abuse (Bowker, Arbitell, and McFerron, 1988).

Older children are frequently assaulted when they intervene to defend or protect their mothers (Hilberman and Munson, 1977-78). Daughters are more likely than sons to become victims of the battering husband (Dobash and Dobash, 1979). Woman abuse is also the context for sexual abuse of female children. Where the mother is assaulted by the father, daughters are exposed to a risk of sexual abuse 6.51 times greater than girls in nonabusive families (Bowker, Arbitell, and McFerron, 1988). Where a male is the perpetrator of child abuse, one study demonstrated that there is a 70% chance that any injury to the child will be severe and 80% of child fatalities within the family are attributable to fathers or father surrogates. (Bergman, Larsen, and Mueller, 1986).

Childhood sexual abuse causes grave, and in many cases, permanent damage to the victim. Victims of childhood sexual abuse frequently abuse their own children and/or choose partners who are abusive. (Summit at 115). Nearly 40% of adult incest victims have attempted suicide. (Herman, 1981).

#### **FALSE REPORTS BY CARETAKERS**

According to David Finkelhor, a nationally-recognized expert on child sexual abuse at the University of New Hampshire's Family Violence Research Program, reports of child abuse increase at divorce and custody litigation for perfectly valid reasons. For example, when marriages dissolve, marital trust evaporates and women notice what they didn't notice before. Further, because divorce is so strife-ridden and is a time of emotional crisis, this can set off child molestation by the father. (Finkelhor). In fact, many mental health professionals believe that many instances of abuse actually only begin after divorce.

When allegations of abuse arise for the first time during custody or visitation proceedings a court may question whether the allegations were fabricated as a litigation tactic or as a method of seeking revenge on the estranged spouse. (Levy, 1989). But experts believe that valid evidence of ongoing abuse may surface during divorce or separation, especially if the abuser leaves the home. First, the abuser has a "diminished opportunity" to "enforce secrecy", allowing the child to disclose abuse to the other parent. (Corwin, 1987). A child may feel safer, and may no longer fear causing her or his parents to divorce. The prospect of visiting the abuser may also trigger a child to disclose abuse. (Summary of Findings from the Sexual Abuse Allegations Project.)

Experts also believe that abuse may actually begin following a divorce or separation, because it "creates a lessening of controls" and "provides situations conducive to abuse". (Thoennes. Summary of Findings from the Sexual Abuse Allegations Project at page 14). (This study also found that allegations concerning parents as contrasted to third parties, such as uncles, were more likely to be valid. Significantly, allegations arising in post-divorce cases were also more likely to be valid.)

Abuse of children by a batterer is more likely when the marriage is dissolving, the couple has separated, and the husband/father is highly committed to continued dominance and control of the mother and children (Bowker, Arbitell, and McFerron, 1988). Since woman and child abuse by husbands and fathers is instrumental, directing at subjugating, controlling, and isolating, when a woman has separated from her batterer and is seeking to establish autonomy and independence from him, his struggle to control and dominate her may increase and he may turn to abuse and subjugation of the children as a tactic of dominance and control of their mother (Stark and Flitcraft, 1988; Bowker, Arbitell, and McFerron, 1988).

Nationally recognized for her testimony in the McMartin day care case, child abuse expert Kee MacFarlane asserts that false allegations by vindictive parents are rare and maintains that just because experts cannot identify physical behavior or emotional indicators of sexual abuse, this does not mean that the abuse did not occur. Courts often perceive mothers who allege child sexual abuse during a custody or visitation proceeding as vindictive women who fabricate abuse allegations and "brainwash" their children for vengeful purposes. (Ironically, these allegations are usually not the mother's at all, but the child's. (Sexual Abuse Allegations Project)). The judicial system forces the mother to be the child's "voice" and to raise allegations that she herself may

not want to believe.) The stereotypes subject the abuse allegations to an inaccurate and biased assumption of invalidity. Incorrect assumptions cause courts to disregard allegations of sexual abuse, thus subjecting vulnerable children to ongoing abuse and lifelong damage. As a result, the focus becomes not whether the abuse occurred but rather on the mother's credibility, and thus many women are reluctant to report actual child abuse. And, if women are reluctant now to report actual abuse, the threat of criminal sanctions which House Bill 826 would impose for reporting actions, which by their nature are hard to prove, would even further reduce the reporting of valid abuse allegations. Abused children will only be harmed by the passage of this proposed measure.

Most allegations of child abuse are not met with protective measures for children pending or following the resolution of the case. Rarely do child abuse victims have protective measures in place for a court-mandated visitation with their molesters. Restricted and unsupervised visitation is seldom awarded, often despite substantiation (including confessions) of child abuse allegations. Despite increased awareness about child sexual abuse and empirical evidence showing that false allegations of sexual abuse are extremely rare, gender bias in the courts against mothers who raise allegations persists. According to one major study, accused parents were allowed unsupervised visitation in 39% of cases during investigation of a sexual abuse allegation; unsupervised visitation was also allowed in 29% of final orders in cases where allegations of sexual abuse had been determined to be valid by the case worker or court-affiliated custody evaluator. (Sexual Abuse Allegations Project). At least two studies suggest that courts punish mothers who "interfere" with fathers' visitation rights, citing them with

contempt for protecting their children from abuse. (Colorado Task Force, 1990). (Massachusetts Gender Bias Study Committee, 1989).

It appears that bias against those raising the allegations in custody cases, usually the mother of the child, causes evaluators to determine that the allegations are unfounded. (McGraw, J. & Smith, H., 1992). In fact, in some extreme cases, mothers are being penalized for reporting child abuse by having custody removed from them and placed with the molesters. This is the ultimate betrayal of a child who will suffer the consequences the rest of her or his life. Mothers who are willing to go to jail rather than turn their children over to fathers who have molested their children. They are not "crying wolf".

#### **FALSE REPORTS BY CHILDREN**

According to McFarlane, the coached child is the most infrequent explanation for abuse allegations. One researcher recently conducted a survey of 201 law enforcement professionals (including professionals ranging from police officers to representatives from district attorneys' offices) and mental health professionals (including child protective social workers) who had ten years of experience in their profession and all worked first hand with children. She discovered that the majority of these professionals believe that children tell the truth in child sexual abuse allegations. Specifically, between 44% and 61% of these professionals reported never having encountered a false allegation of child sexual abuse. Further, these professionals perceived fewer false reports among younger children (ages 0 to 6 years) than among 6- to 9-year olds and 10- to 12-year olds. The author concludes that professionals



perceive that children rarely make false allegations of abuse, and that these people are in the best position to know about how often false allegations occur. (K. Kindle-Tackett, 1991).

Another study of 100 county departments of social services in North Carolina revealed that these professionals believed the abuse allegations. "The percentage of cases in which the worker believed that the child's report of abuse was false varied considerably across ages. In fewer than 2% of the cases involving children under age six, but in 8% of those involving adolescents, the child was believed to have made a false report." (M. Everson, Ph.D. and B. Boat, Ph.D., 1986). In their conclusion, the authors state: "There is reason to believe that the rate of false allegations obtained in the current study is inflated," and go on to say that many CPS workers are "pre-disposed against believing child or adolescent claims of having been sexually abused." They know that a bias against believing the reports of children among some of those who responded to the survey because of their greater expectation that children would lie, as well as their failure to question the validity of retraction of the child's allegations despite obvious evidence of pressure or coercion to recant\*, as well as simple assessments of alleged perpetrators (particularly in one instance where the perpetrator confessed and was subsequently imprisoned the CPS worker continued to deny the validity of the 9-year old's allegation) (Everson and Boat, p. 235).

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\* Children may recant because they fear retaliation from the abuser or because they want to somehow "erase" the abuse. (Sgroi, 1982).

## CONCLUSION

We are not convinced there is a crisis regarding false reports, but rather, there is a crisis of failure to believe valid abuse allegations and failure to investigate and protect. To impose sanctions for false reporting would discourage protective parents and abused children from reporting valid, yet potentially hard to substantiate, claims of child abuse and child sexual abuse. Those who argue for a balanced approach are willing to trade off children's safety to protect the alleged "innocent victims" who are "unjustly" accused. The real innocent victims are children, children who are being abused and not protected; further abused by the system designed to insure their protection. By creating an atmosphere hostile to the reports and investigation of valid child abuse allegations in order to prevent unjust "victimization" in only 2% to 8% of all reported cases, then 92% to 98% of actual victims will be hurt. Unless those limited resources allocated to the investigation of child abuse allegations are focused on the investigation of abuse allegations rather than on the investigation of the reporters' credibility, children will continue to be beaten, molested, and killed. THIS is the crisis!

When mothers who allege incestuous abuse are automatically disbelieved, and labeled as vindictive or delusional, the harm is great. Women are harmed by being denied appropriate orders for custody and visitation; children are harmed because they are not protected from abuse; and our society is diminished by its failure to provide informed and unbiased access to justice. The legislature should not deny children access to the courts and protective services, and should not place undue burdens upon obtaining such access.

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