

TESTIMONY ON H.B. 826

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Please accept my written testimony on H.B. 826. I traveled to Pittsburgh to testify on this bill on April 27, 1993, and although it was my understanding time had been designated for counties to testify at 2:00 p.m., the hearing had been terminated by my arrival at 1:15 p.m.

I would like to comment not only from my twelve years of child welfare experience in Pennsylvania, but also from my experience as the Child Protective Services Specialist for the Kentucky Department of Human Resources (1975 - 1979) and as the Director of Child Protective Services for the South Carolina Department of Social Services (1979-81). I believe my testimony is unique, as I may be the only witness that has managed two state child abuse and neglect registries.

H.B. 826 is an attempt to curb the malicious reporting of child abuse and neglect. Although intended to further protect the rights of the falsely reported, the bill would severely hurt reporting of child abuse without achieving it's goal. However rather than discussing the bill's negative effects on reporting, I have chosen to address my comments to one of the frequently cited reasons for the bill, the questionably high number of false reports of abuse and neglect.

First, I believe the largest number of unfounded reports are a function of our reporting law. The law encourages reports of child maltreatment which can never be substantiated. Simply stated we have a law which encourages the reporting of abuse and neglect, but only allows county children and youth agencies (CAYS) to substantiate "serious" abuse, neglect, mental injury, and sexual abuse (55:3490.4).

There is a lot of maltreatment of children in Pennsylvania which most citizens would agree is abuse or neglect, however our law does not define it as "serious" enough to constitute an indicated or founded case. The law is designed to error on the side of the child, but severely limit who we call an abuser. The reports are not unreasonable or malicious as some would contend, and to support this claim we need only examine the reporting of teachers and hospital employees. In 1991, 70% of school and 59% of the hospital personnel made unsubstantiated reports. These groups constitute the two largest sources of reports, (over 8,000), and I would speculate that none of these reports were unreasonable or malicious. What most of these reports constituted were poor parenting and/or child maltreatment which did not meet the definition of abuse.

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Pennsylvania's definition of child abuse may be the most narrow in the United States. We set a very strict standard on who we call an abuser. For example, the Commonwealth of Kentucky, with almost one fourth the population of Pennsylvania substantiates more abuse and neglect. How can that be? The answer is, Kentucky has one of the broadest definitions of abuse and neglect, including threatened harm. It is my belief, that the greatest explanation of our false reports in Pennsylvania is not unreasonable reporting, but a function of how the law is designed.

A second reason for the many unfounded reports is that contrary to testimony on the malicious use of reporting, the real protection of children comes as a result of making a case for dependency. Except for the minimal penalties associated with Act 33, there are no reasons to aggressively pursue a finding of abuse, however there is every reason to make a dependency case. As reinforced in *RMR vs Snyder Co.*, regardless of the finding of abuse, C&YS still must make a dependency case to protect the child. Simply stated, Act 124 may allow reporting and define abuse, but the Juvenile Act and dependency is what protects them.

A third reason for inaccurate and false reporting has been detailed by Douglas Besharov, former director of the National Center on Child Abuse and Neglect. Arguably the nation's strongest advocate for conservative reporting laws such as ours, Besharov points out that to protect against false reporting, and wasting the efforts of C&YS, we need to thoroughly educate the public, and mandated reporters on the dynamics of abuse and when to report. (See Recognizing Child Abuse - A Guide for the Concerned, 1990).

A final reason for the many unfounded abuse reports stems from allegations made during custody and divorce proceedings. From my experience with these reports, I believe most are well intended complaints or concerns of inappropriate parenting, but ones which do not meet the definition of serious abuse. H.B. 826 will not correct this problem, as the parties will only make anonymous reports, and C&YS will still make the assessment of abuse.

I believe H.B. 826 may be misguided in it's direction, but it forces some very serious questions to be asked about the effects of our reporting law. What percentage of unfounded reports are still carried as dependency cases? In what percentage of unfounded cases does the parent voluntarily agree to service by C&YS or another agency? In what percentage of cases does C&YS believe the abuse occurred but could not find the evidence to substantiate "serious" abuse, neglect, or mental injury? In what cases does C&YS unfound the case because pressing the case in court would do more harm to the child and

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family than the abuse? In what cases does C&YS believe we have abuse but not serious abuse? What are the differences between county family court interpretations of "serious" abuse?

Before we ask how many reports are malicious, we need to answer these and other questions. As Besharov points out, many cases exist where mandated reporters have been prosecuted in civil and criminal cases for failing to report (page 45). H.B. 826 would only create a penalty, the defense of which is Act 124, the Child Protective Service Law.

To improve the system for children and families, I recommend the following, none of which are quick fixes.

First, we need to research and answers to the above questions. Is what the legislature intended in Act 124 really working?

Second, if we as a state are going to allow reporting of abuse, but only find serious abuse, should we further define what it is or isn't. However, by defining what serious abuse is we condone other non-serious abuse to children. In retrospect, this is the system we currently have, we just delegate the defining to ChildLine, county C&YS, and the courts. A safer course may be defining what abuse is not. Some states (such as South Carolina) have enacted such legislation.

Third, to curb the false reporting from custody disputes we need to examine the statutes concerning divorce and child custody. Mediation prior to custody proceedings could prevent many false reports, and it has been shown to be less stressful on children and their families, and to reduce court time and divorce costs. Unfortunately, mediation is often used only if the parties agree, and let's face it, if they could make those type decisions, they likely would not be getting a divorce. What is needed is for courts to strongly encourage mediation or legislation mandating it as a first step. Unfortunately far too many attorney's have a fiscal interest in seeing cases go to court, at the expense of children, families, and the tax payers. The time is right for child centered divorce proceedings?

Fourth, to improve the handling of cases by C&YS we need to professionalize the practice. To do this we need the best training and assessment tools for caseworkers, and a salary that is livable. To the credit of DPW and county C&YS, Pennsylvania is a national leader in both training and risk assessment. Pennsylvania's Competency Based Child Welfare Training and Certification Program is the largest in the nation. The curriculum is sanctioned by the Child Welfare League of America (CWLA), the national standard setting body.

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Further, Pennsylvania's approach to risk assessment is arguably the most scientific nationally. Fortunately, in these areas we only need to continue the course set by the state and counties. However, on the down side, the counties and state still need to find ways to improve salaries to retain child welfare staff. In the last CWLA salary study, Pennsylvania was tied with West Virginia for 47th place in salaries. With some counties still paying less than \$13,000. annually a great deal of improvement is needed in this area. Shouldn't the starting salary for child protectors be at least that of game protectors? Training, certification, and decent salaries will elevate the status of child welfare workers in Pennsylvania, and assure a sound system to protect children and serve families.

Although I strongly disagree with H.B. 826, if it forces us to ask some tough questions about our child welfare system, it may indirectly serve to protect children and the rights of those reported. Thank you for this opportunity to share my thoughts, and experience.

Larry Breitenstein, M.S.W., L.S.W.
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TEMPORARY CHILD PLACEMENT

PARENTS: You are being investigated for a report of child abuse, neglect or endangerment. Under present state law (citation here), we are required to attempt to provide the least restrictive intervention for your child(ren) by requesting you list relatives living within the area with which to place your child. If no relatives are within the area, we can place your child(ren) with a willing and close family friend. This placement must be capable of providing safe care of a child, and they will be subject to an interview by county intake workers. If such resources are not available your child will be placed in the county receiving home or an emergency shelter or foster home until such time that the Juvenile Dependency Court determines whether it should hold jurisdiction over your child. If the Court determines no abuse has taken place, your child(ren) will be immediately returned to your home. If the Court determines that abuse has taken place, relative or foster placement may continue until the Court terminates it's case against you. You are strongly advised to contact an attorney, or one will be appointed for you, if you qualify as indigent.

Please indicate by name (R) or (F) to determine relationship.

RELATIVE (R)
FRIEND (F)

NAME:

ADDRESS:

PHONE #

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I (We), the undersigned parent(s)/guardian(s) do hereby agree that the above list was submitted by me to the Department of Social Services for the purposes of providing temporary relative placement of my child(ren) until the investigation by the Department is completed and the Juvenile Dependency Court has determined the jurisdiction of my child(ren). This is in no way an admission of guilt, nor does it grant permanent custody to the county nor to the relatives or family friends listed herein. DATE: _____

SIGNED: _____

FATHER/GUARDIAN

MOTHER/GUARDIAN