

Testimony of
**The Pennsylvania Coalition Against
Domestic Violence**

House Judiciary Committee
Task Force on Domestic Relations Hearing
House Bills 2003 and 2562

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Good morning members of the committee and staff. My name is Sandra Tibbetts Murphy and I am here today on behalf of the Pennsylvania Coalition Against Domestic Violence (PCADV), the first state domestic violence coalition in the country, which this year is celebrating its 20th anniversary as a state and national leader in the movement to end domestic violence.

It was 20 years ago that a handful of women joined forces — right here in this building — to advocate for passage of the state's first domestic violence law and to coordinate a network of services for victims that would eventually extend to all corners of the commonwealth. Through the years this network has grown from nine to 64 member programs and has provided life-saving services to more than one million victims of domestic violence and their children.

Over the last two decades we have had the privilege of working with a progressive legislature that has enacted significant legal protections and remedies — including no-fault divorce — for the citizens of this state.

We are justifiably alarmed that this legislature is now considering a proposal to eliminate no-fault divorce, and we are adamantly opposed to any attempt to return to a completely fault-based system of divorce.

A return to fault-based divorce will not necessarily keep more families together or make them happier or stronger. It will, however, make it dangerously burdensome or even impossible to obtain a divorce. It will make divorce litigation more antagonistic and time-consuming, and, unfortunately, it will create a huge barrier to those who truly need a divorce from pursuing one.

Implementing a solely fault-based system will not solve the problems which dependent spouses and battered women and their children have with divorce in Pennsylvania. Divorce in a fault-based system will only mean time-consuming, acrimonious litigation which will drain the limited time and resources of the courts and provide more fees for the attorneys. Moreover, the negative effects which divorce inflicts on children are only exacerbated by a fault-system which creates more animosity between the parents.

For battered women in particular, fault-based divorce will only bring greater danger and more opportunities for batterers to manipulate and inflict abuse. Forcing a battered woman to allege, and successfully prove, fault in order to divorce her abuser often leads to violent retaliation by that abuser. The additional burden of increased legal fees also may compel a battered woman to remain in a violent, possibly lethal, relationship.

The most critical problem confronting economically dependent spouses and their children is the lack of access to the courts in order to pursue their economic claims. The current bifurcated system with its use of special masters presents tremendous obstacles to those seeking a divorce. Spouses, regardless of resources, must pay for a special master, as well as an attorney, or forsake any claim to marital assets, financial equity or alimony. The courts of this commonwealth are accessible to corporations, landlords, and people pursuing damages for vandalism or traffic accidents without pre-payment of the adjudicatory costs. This is not the case in divorce. The courts are not accessible to dependent spouses, usually women, who seek economic justice as part of their divorce if they are unable to pay the requisite costs.

These factors all combine to frustrate the efforts by dependent spouses to pursue and protect their economic rights. Dependent spouses are deterred by the costs of a master and an attorney and the lack of the economic ability to fully and fairly litigate. In fact, the vast majority of dependent spouses, when faced with these and other obstacles to access and justice, simply give up their efforts to obtain economic support, allowing the other spouse to walk away from the financial responsibilities of the relationship. The critical issue is thus one of economic abandonment.

The solution, however, is not to return to a fault-based divorce system. Making it even more difficult to obtain a divorce does not address these issues of economic justice. Fault-based divorce will unjustly close the doors of the court for numerous parties who find themselves unable to afford all of the staggering costs associated with divorce. Divorce, whether we like it or not, is inevitable.

It is not our position that the legislature should create more barriers to divorce in order to keep spouses in marriages that are irretrievably broken. The law cannot reconstruct marriage. What legislation can do, however, is better construct the economic consequences so that dependent spouses are not financially abandoned.

The PCADV supports no-fault divorce, not because it might make divorce easier for some people. We support no-fault divorce as an option because it provides a method of greater access to legal and economic rights which otherwise might be beyond the reach of some. We support no-fault divorce because, for battered women, it represents a safer and more efficient way to try to end a violent relationship. As stated before, the critical issue is the lack of access to economic justice for dependent spouses. A return to fault divorce would further limit this access.

For all of these reasons, the PCADV firmly believes that no-fault divorce absolutely must remain a vital option for divorcing adults in Pennsylvania.

Thank you for this opportunity to be heard.