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To: Sandy (with the allergies) **Date:** August 13, 1996
Fax #: 717-783-0683 **Pages:** 3, including this cover sheet.
From: Kevin Sheahen
Subject: Senate Bill 2003

COMMENTS:

Attached is a discussion on no-fault divorce with my comments. I have also attached a copy of legislative proposal I am planning to meet with the Hon. Jeffrey Habay this evening concerning presumptive shared custody. I believe this legislative change will do more to keep families intact than the present bill's language because it will not promote one parent to "get control" of the children.

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New Vision of Divorce

ALMOST WITHOUT FAIL, CHILDREN ARE WORSE OFF AFTER PARENTS DIVORCE.

William Galston, a professor of public affairs at the University of Maryland and director of the Institute for Philosophy and Public Policy, offers a novel solution to divorce. In a New York Times column, he proposes different types of divorces.

Today's no fault divorce laws would continue to cover childless couples, who can cite a variety of mutually agreed upon reasons for ending a marriage. But the law

would treat couples differently where children were involved.

"For couples with dependent children," writes Mr. Galston, "we should eliminate unilateral no-fault - where one person can readily obtain a divorce without the other's consent - and return to an updated fault-based system, with the alternative of a five year waiting period." His plan would call for various braking mechanisms" and marriage-counseling requirements.

Mr Galston insists his proposal would not trap the victims of physical or emotional abuse in destructive marriages. "Not so" he says. The point is to distinguish between

circumstances of physical or emotional abuse on the one hand and lower intensity dissatisfaction on the other."

Under this vision of divorce, a workaholic husband would be harder to get rid of than a wife beater, and a mother who abuses and neglects her children could be divorced more quickly and easily than one who doesn't keep the house clean.

At the heart of Mr. Galston's thinking is the children. Almost without fail, children are worse off after their parents divorce. They lose contact with one parent, they have to move to different communities or schools, their academic performance and so-

cial skills decline, their standard of living plummets, and they're burdened with all sorts of psychological problems that breed crime, depression teenage pregnancy and suicide.

In essence. Mr. Galston proposes to make it harder to dissolve troubled marriages- those in which a spouse needs his/her space or feels vaguely dissatisfied or wonders where the magic went. Such marriages, he contends, could be saved if it weren't so easy to destroy them.

"In the end, it comes down to a moral question," he says. "Is our society willing to put the well - being of children first, even when it may conflict with adult desires and restrain our passion for autonomy?"

It's a compelling question, and one that merits a thoughtful answer from society as a whole as well as from couples entangled in imperfect but salvageable marriages.

← Note: Around 85% of PFA's filed in PA are baseless and are used as a legal advantage in Family Division. Bill 2003 should only exclude documented and proven cases of domestic violence.

Kevin Sheehan
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PRESUMPTIVE SHARED CUSTODY PROPOSAL
COMMONWEALTH OF PENNSYLVANIA
SECTION 23, DOMESTIC RELATIONS
CHAPTER 5301

Submitted by: Kevin Sheahen
Local Chapter President of National
Congress for Fathers and Children
August 12, 1996

Priorities

Physical custody should be awarded in the following order of preference, according to the best interests of the child.

1. Shared to both parents. The Court shall require the parents to submit a plan for implementation of the custody order. If the parents do not submit a consented parenting plan to the court, the Court shall issue a parenting plan allowing both parents 50/50 shared physical custody of their child or children.

There shall be a presumption, affecting the burden of proof, that shared custody is in the best interests of the child unless:

- a. The parents have agreed to an award of custody to one parent or so agree in open court at a hearing for the purpose of determining the custody of a minor child of the parents or;
 - b. The court finds that shared custody would be detrimental to a particular child of specific parents.
 - c. If the Court declines to enter an order awarding shared custody pursuant to this subdivision, the Court shall state in writing its discretionary reasons for such denial.
2. The Court shall consider, among other factors, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and shall not prefer as custodian because of that parent's sex. The burden of proof that shared custody would not be in the best interest shall be upon the parent requesting sole custody.
3. If to neither parent, to the person or persons in whose home the child has been living in a wholesome and stable environment.
4. To any other person or persons deemed by the Court to be suitable and able to provide adequate and stable environment.