## COMMONWEALTH OF PENNSYLVANIA HOUSE OF REPRESENTATIVES HOUSE JUDICIARY COMMITTEE – HOUSE BILL 1723 PRESENTATION BY DAVID M. SCOTT

I would like to thank Chairman Gannon and the entire Judiciary Committee for allowing me to make this presentation in favor of House Bill 1723 Presumptive Joint Custody Legislation.

I would like to begin by introducing myself. My name is David M. Scott and I am a life-long resident of Pennsylvania, except for my service in the United States Army. I am currently a practicing Certified Public Accountant in Altoona and have been with the same firm for thirteen years and I am also the Altoona Division Director, Greater Pittsburgh Chapter, National Congress for Fathers and Children.

We have over 100 participants of our Altoona Division, which include: fathers, mothers, grandparents, second spouses, and other family members who strongly support this legislation.

The following is a brief summary of my experience as a divorced father in Pennsylvania.

When I entered the courtroom in May of 1990, it was the beginning of my limited relationship as a father to my daughter. In a matter of 15 minutes my involvement with my daughter, Ashley, was reduced to every other weekend and one evening per week. When I left the courtroom on that day, it was also the beginning of my current status as a second-class parent.

I had no idea at the time what turn the future would take. During 1991 and 1992, there was custody litigation that lasted 18 months and resulted in conciliation conferences, evidentiary hearings, appeal to the superior court, false allegations of sexual abuse, court home study, a number of visits to various psychologists. I spent in excess of \$30,000, but my former wife was provided with attorneys and expert witnesses by the Watchtower (Jehovah Witness). This custody case was a segment on CBS News 60 Minutes on December 27, 1992.

The next three years since that litigation, I was a full-time father and "mother" at times. I was extremely involved with my daughter's life. Two nights every week and on every other weekend, I saw that my daughter got her meals. I saw that she combed her hair, brushed her teeth, and learned table manners. I taught Ashley to cook simple things, wash dishes, dust the house, and fold the laundry.

Every Thursday evening I would take Ashley to dance class and pick her up when it was over. I paid for the cost and took care of all associated fund-raising activities. I took her to children's theatre, the circus, concerts, and ballet events.

I was the parent who took care of Ashley's school activities and school fund-raising activity. I took care of getting Ashley's needed school clothes, winter boots, hats, gloves, etc. in addition to my monthly support payment. I was there when Ashley needed someone to

take her to the library for a school project and to help her with her homework. We would read books together every week.

In May 1995, my former wife married a member of Jehovah Witnesses in another state. Now there was additional custody litigation that lasted six months and resulted in conciliation conferences, evidentiary hearings, appeal to the superior court, and more visits to psychologist and the financial burden which ended in the selling of my home with now an unsecured debt of \$25,000. It will take me the next five to seven years to pay off this debt.

My daughter was allowed to move out of state with her mother. This past school year, she let Ashley be tardy 26 days and be absent 34 days from school. She has gone from an above average student while in Pennsylvania to a below average student in another state.

The above described experience might seem extraordinary, but what is very sad is it's the rule in this state not the exception for the following reasons.

The current primary physical custody model is what creates the current custody battle climate which is based on a win or lose premises.

Each parent acquires an attorney and battles for the prize, the children, because when you enter the courtroom it is winner takes all.

There are no winners but only losers and that is the children of this state. They are caught in the middle of these custody battles with the high probability of being eliminated from one of the parents. The excessive financial cost of this litigation could be used instead to educate our children.

During the above-described litigation, my former wife brought false allegations of sexual molestation against my daughter's psychologist. False allegations of sexual molestation are used as a weapon to eliminate a father from his children and this also eliminates the grandparents. This is based on the custody battle mentality which is do and say anything to win and who cares what it does to the children.

During the above-described litigation, my former wife falsely accused me of spouse abuse. False allegations of spouse abuse and false protection from abuse orders are the other weapons used to eliminate a father from his children, and this also eliminates the grandparents.

There is no such thing as Taboo anymore in this society which thinks fathers are all child molesters but seem to forget that our children are placed in homes with a mother's new husband or significant other without any knowledge of the individuals background. My daughter was allowed to move to another state with a stepfather who she met only five times.

The parent who becomes the noncustodial parent (visitor) has a high probability of being eliminated from his or her children's life.

These noncustodial parents are usually fathers which are needed in these children lives along with the mother. As fathers we just do not want to be limited to the financial giver but we also want to be an equal caregiver.

It is very sad but more than 50% of the children in this state come from a broken home which has placed a large crack in their foundation and when a father or mother is eliminated from the child's life it will be a life long crack in the foundation that can never be fixed.

I have enclosed letters from fathers, mothers, and grandparents from the Altoona Area as exhibits, which show that my experience as a divorced father is no extraordinary, but the rule in this state.

Exhibit#1 - Mr. Robert Lender - Father

#2 - Mrs. Donna Nycum - Grandmother

#3 - Mrs. Susan Galant - Grandmother

#4 - Mrs. Beverly Hetrick - Grandmother

#5 - Mrs. Clarice & Paul Hoerath - Grandparents

#6 - Mr. Damian Futrick - Father

#7 - Mrs. Joann Dick - Grandmother

Currently, as Altoona Division Director of the Greater Pittsburgh Chapter of the National Congress for Fathers and Children, my phone rings off the hook. I have found my experiences, as a second-class parent, is not the exception.

We should do everything in our power to maximize contact between the child and both parents. One clear way to eliminate the adversarial custody battles in this state is the establishment of presumptive joint custody in Pennsylvania.

Thank you for your support of this very important legislation that will benefit all families of Pennsylvania.

Respectfully submitted,

David M. Scott

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Altoona Division Director

Greater Pittsburgh Chapter

National Congress for Fathers and Children

March 5, 1998

5020 Beale Avenue Altoona, PA 16601

Chairman of Judiciary Committee Representative Thomas Gannon PA House of Representative P.O. Box 202020 Harrisburg, PA 17120

Re: JOINT CUSTODY HEARINGS

Dear Mr. Gannon:

My story started when my son Jonathan, was only fifteen months old. She had an affair, moved out and took sole custody on Jonathan. After this event, things just got worse. She had her attorney draw up a custody agreement stating that due to his young age this would be the best thing for Jonathan. I would get custody ever other friday from 4:00 p.m. until sunday at 5:00 p.m.

During the first few months, Jonathan would cry and say, Why can't I stay longer or come over more often. My response was that the agreement states that this is what's best for you. As years went on and I remarried, we asked for every other Wednesday night and I would take him to school on Thursday morning. You would of thought I asked for the world. She had to get her attorney involved again to see what was in Jonathan's best interest. We did finally get that extra day put into the custody agreement, but by then her was already seven years old. I was only invited once of twice to his first grade parent-teacher conferences. She made it known that she didn't want me involved in his daily activities at school. I never saw one of Jonathan's report cards because they were none of my business. Lucky for me Jonathan was always a good student. Now in eighth grade and a two year member of the National Honor Society, I can be proud that he kept his grades up during this troubling time in his life.

Jonathan is a good athlete and played many sports. I was able to see and talk to him on an average of two or three times a week. He was always glad to see us in the stands and when the game was over he was allowed to come over for just a few minutes. As a caring and supportive parent, I seldom missed any activity in which Jonathan was involved in and by the way I have NEVER missed a Domestic Support Payment.

When it came to vacation plans or time to be spent with my family it was always a problem. We would always get the weeks of vacation in writing, but somehow Jonathan was never permitted to come. From age ten to twelve, he was involed in baseball so he missed our approved week at the beach, because she felt that sports were more important. However, when she went to the beach, Jonathan had to go along.

I think a Joint Custody Agreement should be made available for all children whose parents are separated unless the other parent only wants limited visitation rights. In my case of 1985, I would have enjoyed spending more time with my fifteen month old son and see him grow instead of seeing him SIX days a month and hearing him say, You know I need to be back to my mom's house by 5;00 p.m. on Sunday. I guess I missed some of his growing pains but he knew I was always there for him.

Today, he has a great relationship with his step-mom and two step-sisters. Unfortunately for Jonathan, he wasn't able to enjoy many of the things his step-sisters did because he was at his mothers house.

In closing, PLEASE pass the Joint Custody Agreement into law. This would eliminate the power game associated with custody and would be a win win situation for all children.

Sincerely

Robert D. Lender

March 11, 1998

Vonorable Thomas Dannon House of Representatives Harrisburg, PA

Dear Dir;

I first I all want to say I appreciate you taking time to kead my letter, and also; for listening to Mr. Slavia Scott our local spokesperson for concerned parents, grandparents and children of divorce.

They first point of concern is the children who are torn apart from a family will with the parent who took the child (win) away from the home dicides that he or she can allow the other spouse visitation with their own child (ren). This type of action should not be condoned by the court system. The children of divorce need both parents, not just specified hours and days of visitation; but equal access.

My next point of concern is for parents, damilies and the court to not allow the children to be used as pawns in settlement

of the whole divorce process.

I believe if both parents were granted foint Custody and not foint Custody and faint Legal; this would help all parties involved to have their priorities in order when considering divorce. Daving equal-Joint Custody would be especially benficial to the children (unless there were proven grounds to bring befor the court in the Child's best intenst that would be detrimental for a joint custody).

In closing, I would urge you to vote yes for HB 1723.

Sincerely,

Donna M. Rycion (almerric grandpount) P.O. Bol 177 - Bedford St. Cast Freedom, P.O. 16637

## March 11, 1998

## TO COMMITTEE MEMBERS:

I would urge you to pass the Presumptive Joint Custody Bill. Hopefully, with the passage of this bill, the court system will acknowledge the paramount importance of a father's continuing involvement in his child's life. The courts will recognize that a father can provide the same physical, psychological and spiritual care that a mother can provide.

My family recently experienced seven months of major distress when my son, Scott, filed for custody of his son with the Blair County Court system.

Scott did not know he had a son until the child was 2 ½ years old. At that time the child and his mother lived in California. When he learned he had a son, Scott encouraged the mother to return to Pennsylvania so that he could be a part of his son's life. He acknowledged paternity, entered into a support agreement and eventually petitioned the courts to have the child's last name changed to his own. In January 1996, when my grandson was 3 ½ years old, the mother moved back to Pennsylvania. Scott and the mother worked out a visitation schedule so that Scott had his son overnight EVERY Wednesday and EVERY weekend from Friday at 4:00 PM until Monday morning when he took the child to preschool. In May 1997, after discovering that his son was experiencing psychological and physical abuse by the child's mother, he filed for custody.

At the first hearing before the Custody Master, my son had his Wednesday overnight reduced to four hours (4:30 to 8:30 PM). He also lost his Sunday overnight and was ordered to return the child to his mother by 7:00 PM on Sunday. He actually LOST time with his son. The mother was given legal physical custody. She therefore made all decisions regarding the health and welfare of my grandson. Essentially, Scott had no parental rights and he was basically reduced to a visitor in his son's life.

My grandson developed severe behavioral and psychological problems due to the environment encountered at his mother's home. For instance, when the school year ended, Scott offered to pay for a reputable day care. The child's mother refused the day care and sent my grandson to a babysitter. She would not disclose the babysitter's name or address to Scott. For five weeks in a row, my grandson came to our house with injuries to the left side of his head: i.e., a large bump on the side of his head, an abrasion with dried blood on his ear, and a stiff neck that brought tears to his eyes when he moved his head too suddenly. When we questioned him as to what happened, he said, "I don't remember". Finally in frustration, he blurted out "I'm not allowed to tell what happened". I consulted a detective who specialized in abuse cases. He told me the injuries were certainly suspicious, as normal injuries to a child do not occur on the left side of the head. Scott took the child to a physician who said, "No child gets a stiff neck from playing on a swing set" (which is what the mother said had happened). Both the detective and the physician recommended we contact the child welfare authorities regarding the probable abuse. I am a R.N. and I knew the injuries were suspicious, but I knew I would have a hard time proving their etiology. I suffered inner turmoil as to what to do. If I didn't report the abuse and my grandson suffered permanent damage or even death, I would never forgive myself. At this time in Blair County, the death of little fouryear-old Ashley Decker was in the news----the girl had previously had visible signs of abuse. Even though the grandmother reported the abuse to Child Welfare, the social services failed to protect the child and she eventually died from the abuse. This certainly did not instill in me a sense of confidence that Child Welfare could or would help. If I did report the probable abuse, I feared that my grandson might suffer repercussions from his mother or the babysitter for telling us what happened. We also found out that my grandson was given ice cold baths as a form of punishment. He received spankings with a ½" wooden

paddle that was actually a small cutting board. Every time he had to go back to his mother's home, our family and especially my son were sick to our stomachs at the thought of him being abused even more.

Besides the physical abuse, he also suffered psychological problems. He had nightmares and woke up screaming. As the summer progressed and he spent more time in the environment of his mother's home (which was court ordered), he had uncontrollable emotional outbursts. He would get easily upset and would start yelling, "I'm going to break every light in this house" or "I'm going to break down every door in the house". As these outbursts got worse, he started saying "don't look at me--don't even touch me". I will never forget the day I watched my son walk backwards into his bedroom and pick up his son with a blanket over the child so that he "wasn't looking or touching" him as Scott tried to comfort him without increasing his son's hysteria. No parent should have to watch his child disintegrate emotionally before his eyes because he has no custodial rights.

Many times Scott told my grandson that if anyone was hurting him, he should tell "Daddy" and Scott would protect him. Sometimes my grandson would call our house upset and ask his Daddy to "come and get me". Since it was not Scott's visitation time and the mother would not allow him to get his son, he could not do anything about the situation. Often, when it was time to take my grandson back to his mother's home, my grandson would cry and say "don't send me back there". Because the court gave the mother custody, Scott was helpless. He would pick up my grandson crying and kicking and take him back to his mother. The pain that our whole family suffered as we witnessed this scene was immense. By the end of the summer, the child himself had figured out that there was no help for him and that his Daddy could not protect him. He became withdrawn. Friends and family noticed how this small, sweet boy no longer laughed or socialized. It broke our hearts, but Scott's hands were tied by the present court system.

Finally, on December 16, 1997, seven months after my son filed for custody, he was awarded physical custody. My grandson is now living with his father in our home. At the tender age of five years old, my grandson has been seeing a psychologist for the past nine months. The doctor thinks that he will need at least another one to two years of counseling. His outbursts are not as hysterical or violent. He is doing well in school and his teacher said that he seems happier. He continues to have a limited relationship with his mother, who is less stressed now that she is not the primary caregiver. He no longer has nightmares because for the first time in his life, he is safe, and protected by a loving father.

If the court had given joint custody at the first hearing, my grandson would have been spared a summer of physical and psychological abuse. My son would have been involved in his care as a responsible coparent instead of being a weekend visitor (on the outside looking in). Our family was torn apart watching the extreme distress of a helpless 4-½ year old child and his father who tried to protect him. My son's hands were tied by an archaic court system that is stuck in the 1940's when mothers were automatically given primary custody because they took care of the children while the fathers worked.

I would also suggest that you include language in this bill that both the mother and the father be held equally accountable for complying with the court orders. At the first hearing for custody, both my son and the child's mother were ordered to have psychological evaluations and attend several sessions with a psychologist who specialized in behavioral counseling. My grandson was to have psychological counseling weekly. My son complied with all of the court orders. However, the mother failed to take the child to several appointments with the doctor. She did not have her psychological evaluation nor did she attend any of the behavioral counseling sessions.

At the second custody hearing, she was neither reprimanded nor fined. In fact, the Custody Master asked my son to take time off work to watch her third baby (who was not my son's child) so she could have her psychological evaluation completed. The child's mother NEVER did attend the behavioral counseling sessions. I feel that BOTH the mother and the father should be expected to comply with the court orders or suffer the consequences of a fine or a contempt of court charge. Failure to comply with the court orders should be given considerable legal weight in the final custody determination.

It is time that the laws reflect the equality and importance of the nurturing fathers of the 1990's in the lives of their children. A father who loves his child has every right to participate in the actual care and

moral guidance of his child. Today, fathers attend pre-natal LAMAZ classes and participate as labor coaches at the birth of their child. A father in just as capable as a mother to care for the child. It is not fair to cut him out of the child's upbringing just because the parents are no longer together.

My son lives with us but takes complete care of his son. He takes him to the doctor, dentist and psychologist. He gives him his bath, makes sure he brushes his teeth, and helps him with his homework. He takes him to church .He spends time playing games with him, watching movies, etc. If my grandson wakes up coughing at night, Scott puts the vaporizer on, gives the child cough medicine and places him on several pillows to help him breathe easier. He has already set up a college fund for him. He has proven to me that he is just as capable as any woman to take care of the physical, emotional and spiritual needs of my grandson.

With a national average divorce rate of 50% and skyrocketing juvenile violent crime, I strongly urge you to pass the Presumptive Joint Custody bill in the best interest of the children, their parents, grandparents and extended family.

In closing, I would also like to mention that my son lives with my husband and me because he cannot afford a separate home for him and his son until he pays off the \$8,000. he borrowed to pay his attorney for representing him at the three custody hearings. If he had been awarded joint custody at the first hearing, he would not be in so much debt now and the child would have been spared a horrific summer. Under the present antiquated court system, the child loses while the attorney gains financially.

Sincerely,

Mrs. Susan Galant

112 Ivyside Estates Lane Altoona, Pennsylvania 16601

Susan Galant

(814-943-1704)

March 9, 1998 520 25th Ave. Altoona, Pa. 16601

## To all those concerned

I am writing concerning the rights of grandparents to their grandchildren when the parents divorce. My husband and I had to go to court to get grandparents rights as the child's mother refused to let us see our grandchild. Now what I am asking is this; "Why do the grandparents have to suffer the loss of their grandchild when they were not at fault in the divorce of the parents?" Also why did we as the paternal grandparents have to pay court costs for something that is unnecessary when the maternal grandparents and the step grandparents included can see the child at any given time.?" When you really get at the point of things this even includes the paternal parent's other relatives also.

I can't understand our system at all. I feel fathers should not be the visiting parent but an equal parent as in equal custody of the child. A child needs both parents and both his grandparents too. My husband is deceased now and I continue to get my grandchild. When we first got the grandparents rights we were continuously hassled by the step father and mother when we picked up the child for visitation. All we wanted was to pick up our grandchild and have a nice time with him without any hassles. Does this child need to see this kind of actions?" I think not. The child needs to know that both parents love him and does not need this constant frustration all the time.

We need better laws to give the father's equal rights to their children. After all the child needs his father as equal as his mother. There are a lot of good father's out there who deserve better then what they have been given by the courts. I want to add that the money we had to spend going through the court system to get rights to see our grandchild could have been money to help the child later for his education and not for the hassles of the court system and to fatten another lawyers pocket.

There were false sexual allegations put against members of our family and we didn't get to see our grandson for 2 months while this was investigated. Nothing was ever done about these false allegations. I as a mother myself would never subject my child to this sort of thing to try to keep the child away from the father and grandparents when I would know this to be untrue. There need to be laws to protect the innocent people and to prosecute those involved in these false allegations. I understand that this is an ongoing thing that mothers do against the child's father during custody proceedings in the courts.

It should be an order at the divorce proceedings that the grandparents should be able to continue to have the right to see their grandchildren as they had been doing so previously. Our system needs some real improvements regarding the children of divorce. Thank you for taking the time to read my letter.

Sincerely

Beverly A. Hetrick

Benery a. Hetrick

ath: Rep Thomas Janyon Chainers of The House Judiciary Committee House if Keprosinations!

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as to the truth or facts. Sequel abuse is trutenly would used by lawyers and their cheuts is a Stegation tree without regard to truth or consequences. A all surlied accusere are never held resonable if the case is judged to be without ment. Deline me, our two young female grandaleldren were franctized by these accusations and the verbal and physical evans. ages 31/2 45 at the true. NOW THIS IS CHILD ABUSE

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What are we doing to our children?

What are we doing to our children?

What are we doing to the family?

The child must come first.

Thank you,

Clarice and Parel Horisth RR4 134 Hadidaysburg, FA. 16648 814-695-4632.

March 13, 1998

Dear Sirs,

Five years ago my daughter was born and so was I. I was born into my role as her father. It's difficult to aptly describe the feelings of joy I experienced in those first few days or in the weeks and months since then, but I'm sure many of you can relate. This beautiful little child was mine and I had no other desire than to love her and help guide her on her journey through this life. It never occurred to me that anyone could deny me this simple wish. I was wrong.

When my wife and I split up, custody immediately became an issue. It was difficult seeing my marriage end but it was terrifying to realize that my role as a father could end. In filing for custody I soon came to realize that I was not on a level playing field. Every professional I spoke with advised me not to fight for custody - to do anything but settle for visitation would be a waste of time and money. Fortunately I didn't listen and largely through my own efforts I was able to win joint custody. To be sure, our custody battle left many scars but in my opinion joint custody was the salve that allowed them to heal.

With equal access and equal rights, my ex wife and I were finally on an equal footing. No games were played with visitation or support because there were none to be played - we were still equal partners in parenting our child. Neither of us were forced to become the visitor. We no longer shared a home but we still shared our child - which is as it should be.

Joint custody has allowed me to remain a father to my daughter. I still read her bedtime stories. I still wake her and see her off to school. I still do all the little things I did with my daughter before the divorce. No one should be denied this, especially the children.

Over the years the wounds have healed and despite our differences we are united by our desire to see our child lead a happy and productive life. Thus far we've been successful in fulfilling this desire but I don't think we'd have been as successful if it were not for joint custody. It takes a strong person not to press an advantage, especially when hurt or angered. Primary custody lends itself all to easily to this type of behavior and in the end the ones who suffer most are the children. We all deserve better.

Respectfully,

Damian Futrick.

March 11, 1998 Dear Kep. Sanner, This letter is being writtento you to please pass a Presumptive Joint Custody Bill in Divorce Cases. What I pe seen + indiced as a mother and grandmithen there past 8 240, in and son's divoice core is still untilledelle Eme. The liest place for me to start is from the legit of the liest place for me to start is from the get place for the line of the that our sort are down in the cape. His wife that was one month pregnant told him of her of lays and that the bally young't his and that The aborted one of this habies and Kept it a secret from my son and we for siders. at the time they had have marked tours, and had two sond by 10 up, alothen. They rekreated over this of two months and she wanted to go back and put the family together. He missed has been because Al was close to them. It do so home from work and help with the ride and always played sport, houting, liching, read to them, Saw, they got to church I had prayed time with them and het missed altho. Hatorgave her took her back, He west through the programmy delivery quiette were thed to adopt him night devery often delivery; but the beological futher water tright the popular came home from book and she, herparents, cousen Truk all the furniture out of the house

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