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House of Representatives

COMMONWEALTH OF PENNSYLVANIA
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To: House Judiciary Committee

From: Rep. Robert E. Belfanti, Jr.

Subject: TESTIMONY ON HOUSE BILL 1723

Date: May 12, 1998

I wish to express my appreciation to the members of the House Judiciary Committee for allowing me the opportunity to present testimony regarding House Bill 1723.

I strongly support the presumption of joint custody and urge the members of this panel to give serious consideration to the persons offering testimony supporting the bill's release from committee during the 1998 session.

Given the time limitation of 15 minutes, I will attempt to impart my feelings on this subject matter in specific terms as they have impacted on my family and, in particular, my oldest son, Robert III. Time permitting I may make comments of a general nature, as well as provide the members with pertinent data.

Like many of you, the vast majority of constituent requests of a domestic relations nature are made by single mothers who are in dire need of assistance as a result of their inability to either locate the father of their child or to collect the court awarded child support payments to which they are entitled. It is extremely rare for non-custodial fathers to visit with their concerns about their inability to secure court awarded partial custody or visitation privileges.

This imbalance of our constituent flow-of- traffic tends to skew our vision and presume that most non-custodial fathers are "dead beat dads." Since my son's dilemma, I have come to the realization that custody and support matters transect a wide spectrum of parents on both sides of these issues.

My son became a father approximately 14 months ago. His custody hearing is scheduled for June 29, 1998. His son, Jacob, will be more than 16 months old at that time. Much of what I would like to say today would go unsaid since much of that my son's attorney will present information at that time and at his request, will not be mentioned today.

I am, however, at liberty to discuss matters that are already public. During the course of my son's girlfriend's pregnancy they entered into many agreements. Most of these were discussed with her parents, my wife and myself. A few of these were:

1. My son and his girlfriend would continue to work on their future relationship.
2. He would pay the health insurance deductibles on the prenatal visits and care.
3. He would attend Lamaze parenting classes.
4. He would be in the delivery room.
5. Baby furniture would be located at both the mother and father's homes, as they would continue living together following the birth of the child.
6. The child's name would be by mutual agreement.
7. The child's pediatrician would be by mutual agreement.

As I stated, these were simply a few of the agreements.

As the pregnancy entered its third trimester, the subject of marriage continued to be a nightly "event." By the 7th month of the pregnancy, the previously agreed to commitments were all withdrawn contingent upon a marriage occurring prior to the birth. During the 8th month his girlfriend "moved out" and began having her aunt accompany the couple to Lamaze classes.

Without going into much further detail which will be the subject of the custody hearing, I can state that the mother broke off all dialogue about two weeks prior to the delivery date.

Skipping ahead... repeated efforts by my son and my wife for status reports of both the mothers' health and delivery timetable went unanswered. To make a long, long, long story short, my son was advised of the birth of his son by a friend the day after delivery. My wife and son immediately drove to the Bloomsburg Hospital to see the baby.

Unbelievably, the floor nurse prevented my wife and son to even view the child in the nursery stating that the mother left strict orders that it was not to be allowed. They appealed to the hospital administration and were, again, informed that since there was no evidence of paternity, the mother's wishes had to be respected. They, again, appealed to the hospital legal department and were, once again, rebuffed and escorted from the hospital by a security officer. A dictaphone held in full view of the participants recorded all of these conversations.

Intermediaries were approached by my son so that he might see his child. None were successful. In fact, the mother threatened to secure a PFA or restraining order if my son made any attempt to see his child either at the hospital or at the mother's/maternal grandmother's residence.

My son immediately discussed these developments with his attorney and was advised that he would have to submit to a DNA test, establish paternity, and then seek emergency visitation through the Court of Common Pleas. This process was followed immediately and took 126 days. In the interim, continued attempts to visit the child (under supervised conditions) were rebuffed.

Within one week of the child's birth, my son received notification of a child support hearing. His attorney advised him that support and custody/visitation were unrelated, at least in Pennsylvania, and that the mother could invoke my son as the baby's father for support purposes while denying him any fathers' rights as they relate to other matters. I should note that my son voluntarily began paying child support upon receiving his positive DNA results, which was 6 weeks prior to the support hearing. In fact, he advised intermediaries of his willingness to make support payments from day 1 with the caveat that he could see and hold his son, Jacob.

Finally, the court hearing on visitation arrived and the judge (when learning of the mother's actions) awarded supervised visitation for a 1-month period followed by Wednesday evening as well as each Saturday from 9:00 a.m. through Sunday evening at 5:00 p.m. This remains the status quo. The judge explained to both litigants that the customary "every other weekend" partial custody would not be fair to the paternal side of the family.

During the 126 day interval between the birth and the first touch between father and son, the child was named, circumcised, christened, placed under a pediatrician's care, etc., etc., etc., all without the advice, consent or counsel of the father, my son. During this period of time he lost more than 20 pounds as a result of the prolonged anxiety awaiting the DNA results and court docket.

Since visitation has begun we have enjoyed these weekly visits to our home immensely but even they have come with strings. For example, the mother's attorney initially petitioned the court to negate the overnight visits as she claimed that she was going to breast feed exclusively for a period of 18 months to 2 years. The judge suggested that she purchase a pump and that my son supply approved freezer bags.

The mother also advised my son that the baby was not to eat or drink anything other than breast milk for an indefinite period of time. During the first few weeks, it became apparent that she would never supply enough breast milk for an entire weekend (on some occasions a 3 oz. Bag was all that he was given). During the course of the weekends, my son would "pick up" additional small amounts of breast milk at 6 to 10 hour intervals.

Weeks later we learned that the mother had been supplementing Jacob's diet with formula and cereal. The mother did not impart this information to my son. After many weeks of attempting to discuss the baby's nutritional needs with the pediatrician, my son's attorney was finally told that the doctor had advised solids, including but not limited to cereal, juices and other supplements be added to Jacob's diet.

Recently, Jacob's health was at issue during each "pick-up" wherein the mother would advise my son that he had a cold, ear infection, rash, sore throat, and most recently a penile yeast infection. The baby's well being required that my son again attempt to learn more about his "problems" from the pediatrician. The calls were not returned

With the custody hearing now scheduled, my son's attorney sent a written request for a full health work up to the pediatrician which was just received a few days ago. We were astounded to learn that Jacob had been diagnosed with iron deficiency anemia last December and was to be given an iron supplement prescription on a regular basis since that time. Again, my son was not advised by his former girlfriend or her pediatrician of this directive.

If Pennsylvania joins the many other states where presumptive joint custody is the law of the land most, if not all, of these unfortunate circumstances would have been avoided. My son's rights as a father would have been immediately recognized by his ex-girlfriend, her attorney, the hospital, the pediatrician and the many other entities involved in this entire matter. Decisions could, and should, be made through negotiations as opposed to confrontations or court battles. The many thousands of dollars which my son has spent on attorney fees could have, and should have, been spent on his son.

Many studies conducted by leading universities and federal agencies have concluded the best interest of the children is served by having two caring and participating parents. Too often, children in this Commonwealth are used as tools or for purely vindictive purposes.

While I was unable to copy the data to which I will refer in time for this hearing, I will provide it to the members in the near future.

Once again, I thank you for the opportunity to attend and participate in today's hearing.