

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
JUDICIARY COMMITTEE

TASK FORCE ON DOMESTIC RELATIONS
HOUSE BILLS 1976 AND 1977

ALTOONA RAILROADER'S MEMORIAL MUSEUM
1300 NINTH AVENUE
ALTOONA, PENNSYLVANIA

THURSDAY, FEBRUARY 10, 2000, 8:51 A.M.

BEFORE:

HON. LITA INDZEL COHEN
HON. JOSEPH PETRARCA
HON. ROBERT JUBELIRER
HON. JERRY STERN
HON. FRANK DERMODY

ALSO PRESENT:

JANE MENDLOW
KAREN DALTON, ESQUIRE

TERRY J. O'CONNOR
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1 CHAIRWOMAN COHEN: Good morning, everyone. I'm
2 about to convene another session of the House of
3 Representatives Task Force of the Judiciary Committee. This
4 is the Task Force on Domestic Relations.

5 We have been having hearings throughout the
6 Commonwealth to make our presentation on House Bills 1976
7 and 1977 concerning the reform of the domestic relations
8 process within the Commonwealth of Pennsylvania.

9 My thanks, of course, to Cindy Updyke from
10 Representative Geist's office. Unfortunately Representative
11 Geist cannot be here this morning. We appreciate being here
12 at this wonderful railroad museum for which we will take a
13 tour when the hearing is finished.

14 I want to thank you for making all these
15 arrangements. Of course, my thanks, personal thanks to
16 Bruce Kelley from Senator Jubelirer's office, who was my
17 life saver and got me from the train station to the hotel.
18 I appreciate that.

19 At this point, we also have with us, Chief
20 Counsel to the Judiciary Committee, Counsel Karen Dalton and
21 Ms. Mendlow from the Judiciary Committee. I believe we are
22 about to begin.

23 The first person to make a presentation to us
24 this morning is John Eichelberger who is a Blair County
25 Commissioner. Welcome, Mr. Eichelberger. You may proceed

1 at any time.

2 MR. EICHELBERGER: Thank you, Madam Chairman,
3 and Members of the Task Force. I appreciate this
4 opportunity to be here this morning. I know I was looking
5 to schedule at a later date.

6 I appreciate that very much. I would like to
7 start, as a county commissioner, I take and I receive more
8 complaints about the family law section than I do any other
9 area of government.

10 The county government is fairly broad but we
11 receive a great deal of complaints about that area of
12 government. As you well know, county commissioners have
13 very little control over that area of government.

14 Surprisingly, though, this area is not widely
15 discussed in the media, I think, primarily due to the manner
16 of the proceedings. A lot of public scrutiny is not focused
17 on the family law decisions in our court.

18 I think that leads inherently to a lot of
19 accountability to the presiding officers, the Court and
20 callousness of the court due to various factors, perhaps,
21 time constraints, ignorance of the issues because they deal
22 largely with recommendations from other people in the
23 sections they're making the decision on.

24 And I think perhaps even simply, apathy, of
25 course, because of the pretentiousness of the parties

1 involved. I think sometimes the court's draw out a callus
2 stance on things because of the bickering about all the
3 things that are often associated with family law matters.

4 I see on the schedule, I had figured you
5 probably have heard from and continue from many people that
6 work within the system.

7 I think many of them from various nuances of the
8 status quo that they'll defend and say that with a little
9 messaging of things, of this part of the system or that part
10 of the system and things will work.

11 I'm here to say today that I think our family
12 law court system in Pennsylvania, including Blair County
13 needs substantive change. I think your bill, Madam
14 Chairman, many of your bills provide for that change.

15 I think your bills will lead to a more
16 efficient, more attentive process that will benefit the
17 parties involved as well as the tax payers in general.

18 Court costs and related wreckage from these
19 matters are choking the life blood of our county government,
20 life blood across our Commonwealth. The combination of the
21 court costs, legal fees, counsel charges, support, alimony
22 are crippling the people that are caught in that system, a
23 system that concerns itself very little with the benefit of
24 the people involved.

25 I see a lot of strengths to what you're

1 presenting. The one team, one judge concept has a common
2 threat of accountability throughout both bills.

3 These cases are all inter-related. Whether it's
4 support, property distribution, custody, the Courts, I don't
5 think recognize that fact.

6 And there's too many people involved in the
7 system. The system takes far too long to accomplish. You
8 are talking about a six month time frame, I think, is a
9 tremendous position to take the Judges, I think, loose
10 control of the process and in that the parties choose not to
11 play by the rules.

12 I think they're often guided by their attorneys.
13 They know not to pay bills because they know they can string
14 things along in continuances that last for months and months
15 and months.

16 There's no immediate relief opportunities in the
17 system. There is on paper, but in reality, the immediate
18 relief is something that doesn't happen.

19 I think on both sides of the table, the men and
20 women, both play many, many games within the court process
21 and attorneys know all about the stipulations to get those
22 done. The masters being part of the jurisdiction of the
23 Judicial Conduct Board is a welcome change.

24 They're kind of out there by themselves. Now, I
25 think there is also, within the system a great deal of

1 conflict of interest that goes on in those. There are
2 people that are involved in the system.

3 I understand you're from Montgomery County, a
4 larger county. When you get into smaller counties like
5 Blair, yet smaller counties like us, law firms are limited.
6 They have very few attorneys that do, often times, you'll
7 have an attorney/solicitor from one of the sections of the
8 court. They're partners in the practice of family law.

9 They might recuse themselves from certain
10 things. We all know these cases are interlocked with one
11 another that those primary issues in a custody matter weigh
12 so heavily on support and even enter into property
13 distribution into other issues that come before the Court.

14 I think there's a lot of problems with our
15 current system. I think your major changes here are very
16 well. I do have three things I was a little concerned about
17 and that's costs; cost of the training for masters and
18 people in the system, family resource center costs, and the
19 costs associated with appointing the work, they probably, in
20 lieu of counsel, might have a difficult time finding people.

21 I notice in the summary language it says that if
22 there's allegations made, I know that's yet another game
23 that's played in many cases. There are allegations often
24 levied against one of the parties, that allegation could be
25 substantial in many cases.

1 I think on balance it's just a tremendous piece
2 of legislation. I wish you very well with it. If I can
3 answer any questions, I would be happy to do so.

4 CHAIRWOMAN COHEN: We appreciate that. You
5 brought up some issues that we haven't heard. We've been
6 working on this project for several years, 1976 through
7 1997, and are really the result of several years'
8 investigation and study and going throughout the
9 Commonwealth and listening to probably, at this point,
10 thousands of people telling their stories. You've brought
11 up some interesting points.

12 It's always been my belief that the end of a
13 marriage and the divorce process effects all 12 million
14 people in the Commonwealth. The reason that I say that is
15 because it's not just the parties, but certainly with 50
16 percent of marriages dissolving, children are involved,
17 parents of the parents getting divorced, cousins, employees.

18 Everyone seems to be affected. So it's been my
19 position that domestic relations matters do effect all 12
20 million citizens of the Commonwealth.

21 But you've brought up an interesting point which
22 even further verifies that, which is court costs. The tax
23 payers are the ones that are absorbing those costs and
24 hopefully what these bills will do in the reform of the
25 whole system is to streamline the process to such a degree

1 that your court costs will be substantially lessened.

2 When you talk about your concern, speaking of
3 costs about the family resource center, the training, etc.,
4 there are federal funds available which we are either not
5 using or directing elsewhere. So that in the long run, I
6 don't think that the costs to the taxpayers for those areas
7 will be substantial.

8 I think those costs, even if they increase and
9 are beyond the federal allegations that we get, the
10 necessity to pay these costs will far outweigh the paying in
11 terms in dollar costs, but emotional costs to the
12 participants that it will be well worth it.

13 I just want to thank you enormously in making
14 this presentation and to talking to us about it. One of the
15 reasons we're in Altoona is because we have been in larger
16 areas of the Commonwealth and counties such as Allegheny,
17 Philadelphia, Pittsburgh, into Lehigh Valley and in larger
18 areas where the process is absorbing more people and greater
19 costs.

20 One of the reasons we're in Altoona is to
21 explore and find out, if you will, with due respect smaller
22 counties. I believe you brought up the conflict issue and
23 what happens in the smaller counties. We appreciate your
24 testimony. It's been quite valuable.

25 MR. EICHELBERGER: Can I make two points in

1 follow-up to the costs? As a general rule, we have about
2 10, 15 percent of our inmates in our county jail that are
3 there for support arrearages.

4 I would think that would be a standard across
5 the state. I would assume so. I don't think it would be
6 any different anywhere else. Sometimes they're there
7 because they're deadbeats.

8 Sometimes they're there because truly the system
9 has not made the correct decision for them and they
10 absolutely can't pay that.

11 I would be remiss if I didn't bring up as a
12 parting shot, is there anything you can do to reconsider the
13 presumptive joint custody? To reconsider it would be a good
14 step in the system.

15 I know that's been entered into discussion and
16 legislation bills have been presented in the past. I was
17 supportive of that in the past. I appreciate again your
18 time.

19 CHAIRWOMAN COHEN: We've heard all sides of the
20 joint custody issue. But it's interesting also that you
21 bring up the person for support and arrearages in that we've
22 taken some steps, which I've disagreed with, such as
23 removing licenses from people, not only driver's licenses,
24 but professional licenses for people that are in arrears.

25 Well, if they can't practice and do their job

1 and drive, get to their jobs, how in the world are they
2 going to support their families? I think to put someone in
3 prison, unless he's really a deadbeat for non-support
4 destroys what we're trying to do is to get somebody to be
5 productive to provide the support.

6 I want to welcome Representative Dermody from
7 Allegheny County who is a Minority Member of the Task Force.
8 I'll give you a chance to get settled in. I know Counsel
9 Dalton has a question or two.

10 MS. DALTON: You had said before, Commissioner,
11 that you get a lot of complaints about the domestic
12 relations, more than any other area. Can you give us some
13 flavor about what these complaints specifically entail,
14 please?

15 MR. EICHELBERGER: It's pretty much what the
16 bill addresses, the time involved, the expenses. It's the
17 callousness of the Court. It's the structure; how the
18 system works.

19 It really -- I don't think it's anybody's fault
20 on a local level, but what happens is due to the Supreme
21 Court guidelines that are used. There seems to be no
22 circumstance that outweighs the need for the hearing officer
23 to say, you make this much.

24 She makes this much. This is what we'll be
25 getting paid; you have this many children; this is what

1 you'll pay. You have all sorts of extenuating circumstances
2 that don't seem to account for anything in the Court.

3 A lot of people when they go to court it's their
4 first experience. Most of these people are your average
5 folks, have never been litigants. They go to courts for the
6 first time. It appears to them, I think, for the most part,
7 it's true. It's a cut and dry situation that there's very
8 little flexibility.

9 There's a system in place that really doesn't
10 care about the circumstances involved. You go through the
11 system. You're processed like a piece of meat. When it's
12 all over, this is the decision, and, frankly, a lot of these
13 decisions could have been told to them probably on the first
14 day of the filing.

15 But after six months or a year or 18 months or
16 longer, then a decision is handed down and that's it. They
17 just don't understand any part of it.

18 MS. DALTON: Thank you.

19 CHAIRWOMAN COHEN: Again, Mr. Eichelberger,
20 thank you so much. This has been very helpful. I'm sorry,
21 Mr. Eichelberger, Ms. Mendlow has a question.

22 MS. MENDLOW: You mentioned about the situation
23 where in many of these custody battles, the allegations are
24 made regarding child abuse. I was wondering if there was
25 some -- I would say, a system or a way of handling these

1 situations to insure that when there really might be some
2 basis for that accusation, it is referred to the county
3 children and youth program. How do you handle that?

4 MR. EICHELBERGER: Well, I might be over
5 simplifying it. I have discussed this on several occasions
6 and in apparent systems, there is no accountability. There
7 is -- really the crux of the bill brings accountability to
8 the system.

9 People make allegations and when they're
10 unfounded, there's never any evidence presented to something
11 that is true. The person making the allegations is never
12 penalized.

13 If I'm accused of robbing a bank, I go to court.
14 I make an inaccurate statement on the witness stand, I'm
15 subject to perjury charges. It appears when you're in
16 family court, people make all sorts of statements in family
17 court, of course, income; how much time they have spent with
18 the child; what the other person has done with the child;
19 there's no accountability where the Judge would say.

20 There has to be some proof. You're making a
21 reckless charge, you're going to have some responsibility
22 for that.

23 That seems to be absent from the system. I do
24 blame our legal people for that. They do have the mechanism
25 to do that. I don't know why they say they enforce it. I

1 have discussed it with some of them.

2 I know, I think we all realize there are
3 allegations made in many, many, many cases in family law and
4 I never see people in our prison that are there for perjury
5 charges based on family law.

6 MS. MENDLOW: I guess my concern was there may
7 be circumstances that come up that have some basis? I don't
8 think your county of situation is unique. The question I
9 have is in terms of when you're in a custody situation,
10 there are problems that come up, if you think that there is
11 sufficient communication with the county children and youth
12 program that referral was made, so there's an assurance that
13 it's cleared.

14 I understand your concern about false
15 allegations. But on the other hand, if there is a problem,
16 if it effects the child, that is serious. That it is.

17 MR. EICHELBERGER: I've never heard any
18 complaints that procedures weren't followed and
19 investigations weren't conducted. That does happen as a
20 matter of course from what I know on a daily basis.

21 Our people are very overworked in children and
22 youth. We added two or three more staff this year in 1999.
23 I'm sure that's being done.

24 MS. MENDLOW: Okay.

25 CHAIRWOMAN COHEN: Thanks again. I think we're

1 going to skip around on the agenda. Terry Desboy is not
2 here. Janice Meadows is. Thank you so much. Janice
3 Meadows is the custody manager for Blair County. We welcome
4 you and you may proceed any time.

5 MS. MEADOWS: May I address the previous
6 discussion?

7 CHAIRWOMAN COHEN: Absolutely.

8 MS. MEADOWS: I was going to say as custody
9 manager, I have worked and developed the relationship with
10 the supervisor of the children and youth services. I had
11 been discussing the issue of how we can handle the going
12 back and forth, among so, we do try to work with them and
13 keep these investigations open. Thank you for the
14 opportunity to address you.

15 I base my testimony today on my experiences the
16 last five years as custody manager for Blair County courts.
17 I will focus on House Bill 1977 and how it will impact the
18 complaints and specific dynamics of custody.

19 I also include one recommendation expressed by
20 Blair County President Judge, Thomas G. Peoples, Jr., in
21 regards to Family Law Masters after his review of this
22 testimony.

23 First, a general comment in that I would ask the
24 Task Force to reconsider using the word justice in family
25 law. Justice is not a term usually used by individuals

1 paying or receiving support. No one receives enough
2 support. Everyone pays too much.

3 Further, there's nothing just about children
4 having to cope with the separation of their parents. Is
5 justice served when a judge has to decide not what is in the
6 best interest of the children, rather what parent is least
7 harmful to the children?

8 Anyone familiar with custody relocation cases
9 would concede there's nothing just or fair about children
10 moving hundreds and thousands of miles away from a parent
11 they need and love.

12 Expectations are key to family law, and it is
13 devastating when you turn to the law expecting justice for
14 families dealing with difficult situations created prior to
15 entering the courthouse door.

16 Justice is not a realistic term or fair
17 expectation in family law. Legislation should not promote
18 the concept. I would like to address specific sections
19 within so I'm very specific, instead of all over general.

20 In regards to consolidation, it's apparent that
21 various aspects of family law is very important and
22 paramount in this bill that I was glad to see custody was
23 given certain consideration in various aspects of the bill.

24 Daily, I talk to clients about custody, complain
25 about the custody process and their options within the

1 process. Clients walk into the office after being at the
2 domestic relations or filing for a PFA, others are waiting
3 for a conference with their attorney.

4 They want to make sure they have done everything
5 possible to make sure they have the right information. They
6 have motives, custody cases. Is a client filing for custody
7 to get the support changes?

8 Are the divorce issues preventing a resolution
9 of the custody arrangement? Was the PFA filed or a report
10 made to children and youth services in order to get the
11 upper hand in the custody cases?

12 These dynamics often complicate the custody
13 decisions. Efforts are being made in counties statewide
14 through education and mediation to encourage families to
15 maintain control and responsibility of their lives by coming
16 to an agreement particularly in custody.

17 It is hard work for parties to put their
18 children's needs first; to love their children more than
19 they hate each other. Consolidation in family law
20 proceedings and the establishment of the family resource
21 center needs to be handled carefully in order to prevent the
22 money and property issues from taking over the efforts for
23 the best custody arrangement for the children.

24 Will it be helpful for parties to talk about
25 their divorce, support and custody at the same time? I

1 believe those answers would be, no.

2 In regards to the record, I do track custody
3 cases. And in looking at Section 7207, perhaps the best
4 measure of whether the court system will be successful in
5 helping family law clients and achieving the policies as
6 established in Section 7207, is by the statistics of
7 grievances or settlements through efforts of the parties and
8 their attorneys and/or mediation.

9 I would encourage the Task Force to consider
10 statistical format that reflects not only those cases that
11 are disposed of by Order of the Court, but those that are
12 exiting the Court process through agreements of the parties;
13 cases continued, canceled, withdrawn, pending along with
14 continual need for remodification due to changes of
15 circumstances of families making, tracking a challenging
16 task.

17 With consolidation, clarification of when a case
18 is disposed of is needed if a case is resolved in one area
19 such as custody and pending in another area such as divorce.

20 In regards to Section 7218, tentative decisions,
21 a need exists to deal expediently to deal with some family
22 law situations differentiating between those cases that
23 would benefit from a tentative decision and those that are
24 looking for a quick fix to a long term outcome is difficult.

25 Section 7218, it is conceivable that a judge

1 could enter an order based on information provided by only
2 one party by a brief and then a need to reverse the decision
3 after receiving information from the other party to the
4 detriment of the children in a custody situation.

5 Prejudging custody cases even in special relief
6 circumstances often increases the conflict of the party and
7 may create a status quo that is not appropriate in the
8 overall family situation.

9 In regards to master for custody cases, section
10 7222, specifically, the exception is given for a family
11 master to hear the custody action of the case. Master
12 systems have been beneficial to courts relieving the
13 tremendous time and effort that family law cases can
14 require; however, recently, master systems have been
15 challenged in the area of custody when they involve primary
16 or residential custody. And that is specific within the
17 custody challenge in Blair County.

18 I would recommend the Task Force clarify whether
19 a master would preside in all cases that qualify under
20 Section 7222C or whether it would be exclusive to partial
21 custody and visitation issues.

22 There was a provision. There's a provision in
23 the bill when there's domestic violence that we not send
24 people to mediation. They go in front of a master. I'm
25 just looking for clarification is that all cases or only in

1 partial or visitation cases under the current statute?

2 This is an expressed recommendation by President
3 Judge Thomas Peoples, Jr., of the family law master Section
4 7221. And the rest of the presentation or my thoughts based
5 on my experience, this is from Judge Peoples as he asked me
6 to present and that is that he would like legislation to
7 permit the appointment of masters and/or officers to conduct
8 hearings and record testimony and to offer recommendations
9 to the Court for the Court's draft and entry of orders in
10 all custody matters other than contempt proceedings.

11 He believes that custody dispositions will be
12 greatly expedited to the benefit of children. And
13 prohibition of masters runs contra to permitting them in
14 matters.

15 In regard to the appointment of a representative
16 for a child in Section 7337, in my best estimation, I
17 haven't got specifics on this, at least 40 percent of Blair
18 County custody cases contain some allegations that under
19 7227, would require a judge to appoint a representative or
20 guardian for the children.

21 Parties could pay. In my estimation, they could
22 pay for a representative in perhaps five percent of the
23 cases. The remaining 95 percent of the cases and in a large
24 county -- excuse me -- under the previous custody system, we
25 appointed and paid guardians for many of our cases to assist

1 and protect children.

2 This was helpful in a small number of cases, but
3 overall it was not productive. Both the preference of a
4 child and the information a judge needs for a decision on
5 the best interest can be obtained without the presence of a
6 child representative.

7 Attorneys and advocates are people with their
8 own set of experiences and biases. That may or may not
9 include a background in child development. Recommendations
10 to the Court, even if rational are often perceived to be
11 alignments with one party or the other and, therefore,
12 become counterproductive.

13 In regards to the family law manual, I strongly
14 do promote that. In dealing with custody clients, they do
15 need assistance. There are more pro se filings. Family law
16 clients can be challenging in their expectations of
17 assistance and immediate results.

18 I fully support the development of a law manual
19 including sample filing forms. May I continue?

20 CHAIRWOMAN COHEN: Yes. Please.

21 MS. MEADOWS: My understanding, I need to
22 explain to people the process. This is my understanding in
23 reviewing the bill how this would go in relation to custody,
24 so a family action would be filed and then the requirement
25 for family information sheet that the parties have to do

1 that within 60 days.

2 There is a case management conference held with
3 the parties and case management team and an Order by the
4 Judge assigning the case to tracking within the different
5 case management systems.

6 Custody cases are to go to the priority track.
7 There's a parenting seminar, mediation and then a trial date
8 in no more than six months from filing.

9 My suggestions for this format, there would be
10 some type of rule that mandates that a case manager
11 conference be scheduled no more than 30 to 45 days from the
12 date the action is filed so the conference is in line with
13 keeping that within the six-month period.

14 The bill doesn't provide any direction as to the
15 role of the attorney within this process. It's particularly
16 at the case management conference whether that will be the
17 attorney attends or participants as an advisor or an
18 advocate on behalf of the client.

19 I suspect, whenever possible, the clients
20 present their issues and concerns and that attorneys assist
21 in legal issues. Thank you for making family law a
22 priority.

23 CHAIRWOMAN COHEN: Thank you for your valuable
24 testimony. Indeed, family law is priority. It is the
25 families, we believe, that are the core of the existence of

1 the Commonwealth.

2 It is important to us that we do our part in
3 making people's lives and their quality of their lives as
4 fine as possible. And when there is a painful situation,
5 such as the breakdown of the family unit, I believe that it
6 is our job as legislators to assist in the dissolution of
7 this unit as efficiently and painlessly in terms of time,
8 dollars and emotions as possible.

9 So I think your testimony has been very, very
10 valuable. You are in the trenches. That's important for us
11 to know. I believe Representative Petraca has some
12 questions or comments.

13 MR. PETRACA: Thank you. I just have one
14 question about masters. In my county, Westmoreland, I
15 continue to hear from a number of constituents about
16 problems they're having with masters. I don't know how your
17 system works here or what exactly --

18 MS. MEADOWS: We do not have custody masters.
19 We're in the process where parents are required upon filing
20 to go to a custody education class. They then attend an
21 intake conference with an intake officer, not an attorney, a
22 person experienced in many years of doing custody
23 evaluations and we work with them to get an agreement.

24 There's not a recommendation to the court if
25 they reach an agreement that is presented to the Court. If

1 they don't, they move onto the conciliation conference. It
2 is a conciliator who has mediation training, who is working
3 with the parties, again, to help resolve their issues.

4 If they do not resolve the issues, they have
5 evidentiary hearings. They have a hearing on whatever the
6 issues are and heard from the Judge. That's our current
7 system. We're not using masters at this time in custody.

8 REPRESENTATIVE PETRARCA: Some of the training
9 for people in this process, you mentioned intake. One does
10 the intake then another mediator and what kind of training
11 are they exposed to for these positions? Do you feel that's
12 adequate?

13 MS. MEADOWS: The training that -- some is basic
14 common sense and working with people and people's skills.
15 They're dealing with people, as you've mentioned, in a very
16 difficult time. So they work with people skills. Basic
17 background in child development is helpful.

18 There's a lot out there within that field even
19 that when you get to how and what you should do in a custody
20 case with a one-year-old, do you allow overnights or not?
21 There's lots of information out there. So training, I
22 guess, needs to be continual not to be -- I don't want to
23 say swayed by any particular fad as far as what it does for
24 children, general overall child development, is someone with
25 a four year degree, at least college, with some background

1 in social work dealing with people and mediation skills are
2 very beneficial.

3 Again, when you work with people trying to help
4 them put their children first and come to some consensus, do
5 a little giving. Those are my thoughts as far as training.

6 REPRESENTATIVE PETRARCA: I appreciate it.

7 Thank you.

8 CHAIRWOMAN COHEN: Just --

9 MS. MENDLOW: It's my understanding each county
10 court would make a determination as to the type of training.
11 Like in Blair County, would you be the person to kind of put
12 an input into the hiring of these individuals?

13 MS. MEADOWS: The Judges in our small county,
14 four Judges, are the ones who develop a policy and
15 procedures. I do provide recommendations, statistics, that
16 type of thing, to the Judges to make their decisions. So I
17 try to provide as much information. I'm not actually the
18 decision maker. The Judges are.

19 CHAIRWOMAN COHEN: Thank you. We appreciate you
20 being here and certainly your willingness to move up on the
21 agenda. I think that Terry Desboy has arrived. Mr. Desboy
22 is an attorney and Chair of the Family Law Section of the
23 Blair County Bar Association.

24 We welcome you. We appreciate you're being here
25 and you may proceed whenever you desire. Do you have

1 written testimony?

2 MR. DESBOY: I apologize. I basically came to
3 speak off an outline. I didn't type up any specific
4 testimony that I was going to give. Just as a further
5 introduction, first of all, I would like to thank the
6 Committee for having me here to speak a little bit about my
7 background.

8 I've practiced domestic relations law for about
9 15 years in Blair County and I do have somewhat of a
10 multi-county practice. It gets me into different
11 jurisdictions.

12 So one of the goals I conceded have been set
13 forth in the Post Chapter 72 is to have uniformity
14 throughout the State with regards to the procedures that are
15 going to be followed by the various county courts with
16 regard to domestic relations law. I applaud the Committee
17 for that effort. I think that's very important.

18 It's very frustrating if I have someone who
19 lives in Altoona, for example, that has a child custody case
20 in Allegheny County, then I have to learn all the rules of
21 Allegheny County, call down and find someone nice enough to
22 fax me some forms so I'm using the proper form, follow their
23 procedures correctly.

24 It's always a relief to find someone like that.
25 It's not always easy generally speaking. As I previewed the

1 proposed House bill, I see what the emphasis appears to be,
2 which I think is good, is trying to change the current
3 domestic procedure that definitely places undue hardship on
4 families and children.

5 And using the traditional adversarial process, I
6 think, does add to that hardship. I think one of the
7 problems that is always going to be present that I don't
8 know we'll ever be able to resolve is the emotional highs
9 and lows people tend to go through in divorces and custody
10 providers.

11 No matter what we do, I think they're always
12 going to be those problems we have right now, which in my
13 estimation, I think one of the biggest problems is the delay
14 that's caused by the parties themselves and not only the
15 procedure.

16 So I think the efforts towards counseling is one
17 area, one step in the right direction that actually gets the
18 people to understand. I even tell them, in my own practice.
19 In the first interview I tell them, Please try not to argue
20 over minor issues.

21 Let's get this thing behind you because it's a
22 costly endeavor to go through a divorce or a custody
23 proceeding or a support proceeding. Not only measure costs
24 in the terms of money, always measure it in terms of your
25 time and emotional drain on you personally.

1 I think the Committee should be applauded by
2 addressing these as being real problems in the area of
3 family law. And I think with many of the proposed
4 revisions, hopefully those problems will be addressed to the
5 best of your abilities.

6 Any way, I wanted to just talk about the new
7 Chapter 72. Generally speaking, I think the new House bill
8 is more of a procedural change, change in procedural law
9 rather than substantive. As I was looking at the
10 declaration of policy, I see one of the desired goals is to
11 get through family litigation within six months.

12 Inherently, I see a problem with that goal when
13 all you're doing is changing procedure. You're not changing
14 substance because what I run into in some instances where I
15 see -- you're all aware under the current Pennsylvania
16 divorce code, a person cannot unilaterally get a divorce
17 unless that person proves fault, which is an archaic way of
18 doing it.

19 I've been practicing heavy divorce litigation
20 for 15 years. I can tell this Committee that I have never
21 once had a case that went to a hearing and was resolved
22 based upon a fault of the divorce allegation.

23 We don't do those in Blair County. I'm not
24 sure. That's probably true as well statewide the way this
25 -- we're left with when one party stubbornly holds off on

1 signing the final papers necessary to conclude the divorce.
2 We're left with the two year waiting period.

3 So I don't know how we're going to conclude
4 things in six months when we have that situation that I run
5 into in some situations where both parties could be -- both
6 that disagree on everything.

7 You can't get to a master to get your final
8 resolution in six months because one party can say, look,
9 I'm not ready to go to a master. You have to wait your two
10 years of separation.

11 I think I would hope this Committee would
12 consider making some proposal change of the substantive law
13 of this State to allow that. I think that's been suggested.
14 I've heard statements to that effect.

15 There was some proposed legislation that perhaps
16 we change the two year period to a one year period. When I
17 first started practicing law, it was three years. It's
18 now --

19 SENATOR JUBELIRER: It was a miracle.

20 MR. DESBOY: It's interesting. We have the
21 accusatorial finger being pointed in many directions.
22 Whenever you have a lengthy divorce, you have any
23 significant divorce, they tend to drag themselves out.

24 We can point the finger at many different
25 sources, the lawyers, the litigants. I think the rules and,

1 I think until we get to the point where we can allow the
2 mechanism to force them to go to a master, this goal of six
3 months is not going to be realized. That's an issue you
4 need to consider.

5 As far as the other areas that I wanted to talk
6 about, I mentioned briefly the need for a uniform system.
7 That's very important. I think I mentioned, for example, if
8 I filed a custody petition in Allegheny County they use a
9 different procedure; even the procedures statewide as far as
10 how we get to a final economic resolution in divorce. We
11 have some counties that don't use masters.

12 We, Blair County, have, I think it's five
13 permanent masters that sit and hear the divorce litigation,
14 the economic issues and then we have a conflict -- a couple
15 people that are on a conflict panel basis that in the event
16 that your parties for some reason or another can't use the
17 masters that are used, you'll use a different method.

18 Personally, I think it's very impersonal. We're
19 a very mobile society. I think it's very important
20 statewide that we have it uniform. It's not very unusual
21 for a Blair County lawyer to go to another county and know
22 the procedures.

23 As far as the area of Section 7211, I think is a
24 good proposed section that deals with limiting the testimony
25 of a minor child. I believe what the proposal is would be

1 to allow that at the direction of the Judge. You have to
2 specifically make a request that the minor child be able to
3 provide testimony in, I'm assuming, some limited fashion.

4 Just going through the changes that I've seen in
5 15 years I've been practicing law, I can remember when the
6 children were literally -- when I first started practicing,
7 were able to provide testimony. There was a stenographer.
8 We would go back into the Judge's chambers.

9 The Judge would pretty much conduct the
10 examination of the child with the attorneys who were allowed
11 to examine the child as well. It was -- still had that
12 taste of being in an adversarial position that the child was
13 in and undoubtedly the child was feeling the pressure of
14 having mother's lawyer there and father's lawyer there.

15 So I think what we've done in Blair County has
16 been, I think, a step in the right direction recently that
17 is to allow the Judge, if upon request, the Judge would
18 perhaps take the child in chambers and talk to the child
19 without having any of the attorneys present.

20 Sometimes the attorneys may be present, but
21 don't question. But they -- the Judges locally, I think,
22 have done a good job on that. I think it's important in
23 every way to try to pull the children out of the feeling
24 that they have to go into a courtroom and side with their
25 father and mother.

1 I know that's a fact. I know that even allowing
2 a child to testify generally puts a little bit of pressure
3 on each parent to maybe not consciously, but subconsciously
4 maybe influence a child so they go in and testify on their
5 behalf.

6 I see that happens. I've seen some extreme
7 cases. Most cases, parents are sensitive to that issue.
8 Another section I want to comment -- I wanted to comment on
9 was the family information statement under 7212.

10 As I read that, I see that with the commencement
11 of any family action, there is a proposal that there's a
12 requirement -- a requirement that a statement be submitted
13 with any pleading.

14 For example, my understanding is -- maybe the
15 Committee can correct me if I'm wrong. If I file a divorce
16 action or custody action or modification petition of any
17 sort, we have to go file this information sheet and if I'm
18 correct in my assumption that it's filed with the
19 Prothonotary's Office of the local courts.

20 That, in essence, is public records. Someone
21 can go and look into the specific areas. The concern I have
22 is the private information. Is that to be given under that
23 proposal? Specifically and most importantly, I think are
24 the requirements that report of any physical emotional or
25 sexual abuse of a family member be reported.

1 My experience has been not only in the last 15
2 years has there been many actual abuse cases uncovered that
3 was perhaps swept under the rug 25 years ago. But there has
4 always been an increase, in my opinion, of the actual false
5 reports of the abuse. I think false reports of the abuse
6 whether it be sexual, especially sex against either parents,
7 is just as traumatic as abuse itself. If we have -- keep in
8 mind, we're dealing with human beings coming into their
9 lawyers and giving information they have. Some of them have
10 a vendetta.

11 Some of them have an agenda and if we have a
12 requirement they report things like sexual abuse, we're
13 going to have a public record of allegations like that that
14 could be, I think, detrimental to the person who could be
15 wrongly accused of something like that.

16 Our local children and youth services deals with
17 that issue on a very fine level. It's handled very
18 confidentially so that they have that avenue to use rather
19 than have that in some type of statement. I believe people
20 aren't running out to the courthouse looking into records
21 all the time. We don't know. They might be. I could see
22 that happening.

23 So that concerned me. Although, I can see that
24 the intent, the purpose of that requirement, I think, is
25 well-founded. But sometimes I think we need to look into

1 what we're doing by having the person put that in writing.
2 I've had my share of both having clients falsely accuse and
3 also clients who have come in that, I could guess, they were
4 falsely accusing the other one.

5 That's a problem. I think we need to address
6 that. As far as the education aspect of the proposed
7 legislation, I believe that was a good idea because when we
8 play the role of lawyer, of judge, of master, of any step in
9 the process of family law, we also have to play the role
10 somewhat as far as psychologist because sometimes figuring
11 our clients out, knowing what type of investigation to give
12 is important when we have people that are making the
13 decisions, dealing with this issue. I think it is important
14 they have some education.

15 But I don't know what extent it to be taken to.
16 I know as a busy family practitioner my schedule is very
17 tight. My time is budgeted. With regard to the proposal
18 for the Judges to get conditional education, I don't know
19 how far we should take that.

20 I know the judges are going to different
21 classes. I know Judge Capria, she's actively involved in
22 the mediation. The idea of mediation, which has the essence
23 that people should be able to resolve the issue between
24 themselves.

25 I have always told my clients when they come in

1 and they want to go to a courtroom, but I always tell them
2 do they want someone in a black robe telling you what to do?
3 Why can't you figure these things out. I know the parties
4 best equipped to do that. I do realize there are people who
5 have to get someone who is going to make a decision.

6 One final point, I don't know whether I'm over
7 my time. I have another meeting to get to, but is the delay
8 in getting some sort of resolution to an important custody
9 issue. I'll give you an example.

10 We have in our local courts, we have specific
11 language as to how we can obtain special relief on custody
12 cases. Special relief would be extraordinary relief where
13 you have a problem that needs addressed immediately.

14 One of the things I see a need to address is
15 what do we do when receive a situation when we don't have a
16 status quo. We have two parties fighting over a child.
17 It's going to take us several months to get before a judge
18 who can be the only person who can make a decision for
19 primary custody. We need some answers right away.

20 I'm feeling a sense of frustration among my
21 fellow members of the Blair County Bar. The rule is very
22 local and requires a high standard. We have to show the
23 child is in immediate danger or immediate harm.

24 We have an example where parties are recently
25 separated and there's one parent that wants to go to Disney

1 World and the other one said, No. They changed their mind
2 and the child is upset. They may go to Disney World.

3 I see you nodding. You can understand it
4 certainly isn't a life-threatening situation. It's not an
5 emotional -- I might see it being that emotional, but the
6 local courts are pretty much saying put it through the
7 regular channels and go to your intake and conciliation and
8 wait your months.

9 Then what happens if your time is up? Whenever
10 the issue is really ripened you have to deal with it, figure
11 out what you do between yourselves. So there are those
12 times when we need an immediate answer. We do need the help
13 from the courts. I understand that the essence of the
14 proposal is to get away from the system.

15 We need somebody that is going to sit down and
16 say, you can't get along, you're not considerate to make a
17 decision based on the best interest of your children. That
18 is true. We need someone that's going to say temporarily
19 that's going to happen. We need that ability as well.

20 So I could probably talk for three hours about
21 these things. I realize I have a time limitation from your
22 perspective and from mine. Does anybody have any questions?
23 I think that would conclude what I have to say.

24 CHAIRWOMAN COHEN: Thank you. We appreciate you
25 being here. You are correct. As I mentioned when we

1 started, I have mentioned for each of these hearings
2 throughout the Commonwealth, this is an area that we started
3 working on six years ago.

4 As you said you could probably talk for three
5 hours, we like to do this and get the constitutional
6 amendment on the ballot as quickly as we can. We could
7 probably work another six years and still not come to
8 perfection and complete resolution.

9 We've heard from now probably thousands of
10 people, attorneys, judges and conciliators, mediators,
11 children participants, relatives, everybody. And every time
12 we hold one of these hearings, we hear from somebody else.
13 We can say we've heard every story imaginable.

14 The next hearing comes along or I get a phone
15 call and there's a whole area I haven't dealt with. It's
16 really complex. We're trying to be as perfect as we can.
17 Obviously we have copied from other states which are far
18 ahead of Pennsylvania in doing what they do to make the very
19 painful situation on behalf of the State as painless and on
20 our part, make it painless as possible.

21 Before we get into further questions, we have
22 two more important folks we want to thank for hosting is
23 Senator Jubelirer, who is the President Pro Tem of this
24 Senate and this is your home district.

25 I've already announced on the record publicly

1 that Bruce Kelley saved my life and picked me up from the
2 railroad station. So we appreciate that.

3 SENATOR JUBELIRER: He saved mine last night.

4 CHAIRWOMAN COHEN: We appreciate you being here.
5 Any comments or questions?

6 SENATOR JUBELIRER: I can't stay. I have to go
7 to a place called Montgomery County. I have to be there
8 tonight for a function I committed to some time ago. Let me
9 just say at this time one of the co-sponsors, Tanya
10 Sarricka, who is now a Third Circuit Court of Appeals
11 Divorce Reform Code of 1980.

12 Some of us were the legislators working on
13 changing, not bringing Pennsylvania to the 20th Century
14 making -- even creeping into the 19th Century. We are so
15 archaic with our divorce laws.

16 I think it's wonderful that Chairwoman Cohen and
17 this Task Force are traveling around the State looking at
18 the 21st Century now to update this.

19 I'm not kidding. You can't imagine what it took
20 to get a three year no fault divorce period of time
21 contesting no fault divorce in because it was a battle
22 royale in 1980 to get this bill passed. It passed by a very
23 narrow margin.

24 I think it's highly appropriate as we move into
25 this time and period of society and certainly across

1 Pennsylvania that this be done. I had a great interest in
2 this legislation, in fact, we had done some work in the
3 Senate.

4 We didn't get this far, but I've always had a
5 great interest in family law, and for many reasons, but I
6 think this is a tremendous effort. I appreciate those who
7 have come here from the General Assembly. Thank you. We're
8 pleased that you are here.

9 Again, I agree. I think it should be uniform.
10 It didn't make much sense not to be uniform across the
11 state. This is not going to be easy, I can tell you,
12 without even testing it.

13 Any time you get into this area as Chairwoman
14 Cohen knows it is very difficult to pass legislation.
15 Everyone has his or her idea of what it should be and the
16 interest groups out there. I'm not going to get into who
17 they are. I think we all know who they are.

18 They have very definite opinions about what
19 should or should not be done. Some will call it
20 legalization of our laws. I would respectfully disagree. I
21 think it's a practical application of society today dealing
22 with particularly children who are victims of much of what
23 parents seem to want to do to each other.

24 So I just hope that as you travel through the
25 State that we can be of help to you once you do your efforts

1 in the House. I commend you. I think this is a wonderful
2 effort. I appreciate the fact that you're here and hope
3 that you have a very successful day. I apologize that I'll
4 be leaving pretty soon.

5 CHAIRWOMAN COHEN: Thank you. We appreciate the
6 support. I just want to touch on some things the Senator
7 has said. You are correct. When I was admitted to the Bar
8 in 1965 we had a county-wide practice. And so we had to go
9 from county to county.

10 The statewide practice has made it much easier
11 for all of us. I want to emphasize that it's not the goal
12 of this Task Force or the bills that we've put in to make
13 Pennsylvania, if you will, a quicky divorce state. That's
14 absolutely not our goal.

15 In fact, in some of the early hearings, it was
16 the general consensus that what we probably should do is
17 make marriage a little more difficult. We don't know how to
18 do that yet.

19 SENATOR JUBELIRER: Let me know when you do.

20 CHAIRWOMAN COHEN: The purpose is when a
21 relationship reaches a point where it has to dissolve. In
22 the current situation, we have discovered that the State and
23 our laws make a painful situation more difficult. Our
24 current situation, our procedures, our court system and our
25 laws exacerbate the difficult situation. That's what we

1 want to deal with, not making Pennsylvania a quicky divorce
2 state.

3 I think we've really got to emphasize that.
4 That's why we're here.

5 SENATOR JUBELIRER: I've tried no fault divorce
6 cases as a practitioner in the family law. They're
7 unbelievable questions that you have to ask people. I mean,
8 you wouldn't believe today people who are practicing never
9 practiced in that fault system. You had to do what you had
10 to do.

11 MR. DESBOY: I couldn't imagine. I haven't
12 done one. We don't do them any more. Fifteen years I've
13 been practicing, we don't do them. Just as a comment, I
14 still think no matter what, even if we change our laws to be
15 a one year separation, I don't think it would be a "quicky
16 divorce" that gives us the basis to go to the Court and say,
17 Judge, we're ready for a divorce.

18 We've had a separation. It doesn't mean that's
19 going to end that day. It still is reduced to one year.
20 That would be good a idea. That cuts down on dragging it
21 out, the two year problem we run into.

22 CHAIRWOMAN COHEN: I have to say that in our
23 studies we have studied all 50 states in the union plus
24 other countries and what we've discovered, I think, it's
25 urgent we act on this immediately.

1 Pennsylvania is far -- we are -- we had one
2 experience. We are the laughing stock of many of our fellow
3 states because we are so far behind in dealing efficiently
4 with this area.

5 So we appreciate Senator Jubelirer being here
6 and your comments and your support of this. We hope to
7 present to the Senate before the end of the year.

8 SENATOR JUBELIRER: It's a worthy project.

9 CHAIRWOMAN COHEN: Get it on the ballot the
10 spring of 2001.

11 MR. DESBOY: What I noticed is we all know the
12 make up of the family has changed. I think that's why the
13 law has to be dynamic in the area of changing all the time.

14 We know the statistics show probably half the
15 kids in our schools in Pennsylvania come from broken
16 families, non-traditional. That's why we're constantly
17 going to be making changes.

18 CHAIRWOMAN COHEN: Thank you.

19 MR. DESBOY: I have to be at a 10:00 hearing.

20 CHAIRWOMAN COHEN: I want to introduce
21 Representative Dermody the Minority Member of the Task Force
22 from Allegheny County.

23 REPRESENTATIVE DERMODY: No questions.

24 CHAIRWOMAN COHEN: Does anybody have any
25 questions? Mr. Desboy, thank you very, very much. Your

1 comments were terrific and I thank you.

2 MR. DESBOY: Thank you.

3 CHAIRWOMAN COHEN: The next person to make a
4 presentation to us is Terressa George, Guardian Ad Litem for
5 Blair County Children and Youth.

6 Ms. George, we appreciate your being here.
7 You're the first Guardian Ad Litem we've had come before us.
8 We certainly look forward to having you in the hot seat.

9 MS. GEORGE: I would like to thank the Committee
10 for the ability to testify in front of you and give
11 comments. As a way of background, I have been practicing
12 for almost 10 years now. And with eight -- almost nine of
13 those being specifically in the family law section, I have
14 also previously done Blair County custody cases, had
15 Guardian Ad Litem that were appointed as Ms. Meadows had
16 stated to represent children in custody cases where the
17 children were basically put into the middle.

18 It was an extreme case. I had begun serving as
19 Guardian Ad Litem in this system probably six years ago --
20 five or six years ago and served as a Guardian Ad Litem and
21 have a continuation of a few cases still pending before the
22 Court in the custody system; and have been serving as a
23 Guardian Ad Litem in Children and Young Services for the
24 last two to three years.

25 I would like to address that issue, which is the

1 viewpoint that I come from and also come from in my practice
2 which is the aspects of the divorce, custody and the other
3 procedures and their effects on children.

4 I find that children find they're placed in the
5 middle feeling like they're being pulled between two
6 parents. While I appreciate the six month resolution or the
7 ability to try to resolve this within six months, I think
8 for children, that's important as quickly as we can resolve
9 some of these issues, get a decision made, that's important
10 for a child.

11 The longer that custody situations drag out, mom
12 and dad arguing back and forth, the strain on a child is
13 tremendous. I think in my own experience, we had a case
14 wherein the children had been living with their mother and
15 wanted to live with their father and it took five years --
16 five years to get through the court system, through Blair
17 County and through an appeals court for the court to say, We
18 think you're right. These parents are equal. The children
19 should be able to go live with their father.

20 That is a tremendous strain on the children and
21 on the family relationship. A lot of times, I recommend to
22 my clients, if your child wants to go live with the other
23 parent and they're making a rational decision, they're old
24 enough, mature enough to make that decision, you need to be
25 strong enough to possibly allow that to happen.

1 Ultimately, I have found the children, normally
2 a lot of times, returned to that family or to that parent
3 within six months to a year and if not, the family
4 relationship is stronger because just as anyone else, a
5 child being told they can't do something, being forced to
6 live in a situation that they don't want to live in, now
7 that takes into consideration some reasonableness and not
8 allowing -- obviously, you can't allow a child to make the
9 decision and control the situation. But ultimately the
10 child feels some control and the relationship of the parent
11 who has allowed them to go is much stronger and comes back.

12 I believe that representation for children in
13 certain cases is important. Unfortunately, in our system,
14 in Blair County, previously, I believe, that the Guardians
15 Ad Litem were abused.

16 I think that, from a standpoint when I say that,
17 I think that it came from not only just the Court, but from
18 the attorneys in an evaluation of really what is necessary
19 for a guardian. Is this a case that is necessary to have a
20 Guardian Ad Litem appointed?

21 I know I have a number of cases or a few cases
22 where I was appointed. I called the Judge on the phone. I
23 said, Judge, in my viewpoint, this is not an appropriate
24 situation for a Guardian Ad Litem to be put in.

25 The concern that I have, as Ms. Meadows had

1 indicated, under 7227 of the requirement of Guardian Ad
2 Litem being appointed, there were allegations of domestic
3 abuse that concerns me.

4 And as Attorney Desboy also pointed out, in our
5 county, I believe they do a fairly good job of addressing
6 the issue through Children and Youth Services as to whether
7 or not the allegations of abuse are substantiated or not.

8 And I think that you find, unfortunately, in
9 some situations where there are false accusations made and
10 clearly that affect on a parent and their relationship with
11 that child is drastic and dramatically affected.

12 So my concern would be that it cannot be just an
13 allegation made by a parent and brought out of the blue.
14 That also addresses my concern as well with the information
15 statement and, again, what types of allegations or physical
16 family violence are you talking about?

17 That runs the gamete from child abuse to PFA's
18 where you have people using Protection from Abuse in order
19 to gain an upper hand of getting access to the house or
20 maintaining the home or getting custody of the children.

21 I think those situations need to be interpreted
22 much more closely and that is a concern for me as a Guardian
23 Ad Litem in representing children.

24 I bring my practice and make recommendations on
25 what might be the best interest of the children. And while

1 I think a quick resolution to everything is best in the
2 interest of everyone at times, there is not that
3 possibility. As you all know, you may have heard, clearly a
4 divorce and split of a family is a traumatic and emotional
5 situation.

6 And a lot of times, clients are not in an
7 emotional position to deal with the economic issues or the
8 other aspects of the divorce within six months. You may
9 find an obstinate client at the six month level who maybe
10 five, six months, three months down the line is more
11 cooperative.

12 Looking at the situation in a different light,
13 they aren't still angry about the breakup or whose fault it
14 might have been. So I have some concerns with the time
15 limit.

16 I would applaud and believe, based upon my
17 experience, a separate family law court is necessary and
18 believe such would be appropriate, I believe, in every
19 county.

20 It's my understanding from practice from my
21 belief that sometimes the family law side of the court does
22 not get the attention and the media attention that it needs.
23 I can see a criminal while they have the constitutional
24 rights can get into a Judge much quicker and get better
25 attention than a family can.

1 To me, I think that's inappropriate. If there
2 is someone who is especially presiding -- my understanding,
3 I've not done much practice or very little practice in
4 Allegheny County, however, with Judge Baer, Max Baer, who
5 had been appointed with a separate family law that county
6 operated in a very efficient manner.

7 I would agree with Attorney Desboy that while
8 it's always best for the family to try -- parents to try to
9 make a decision together, which is currently our system here
10 in Blair County, a lot of times that doesn't happen.

11 And some families need someone to come along and
12 say, Here is what the situation is. Here is what we believe
13 should happen. When we had a master system previously,
14 while it had its problems, we found -- at least I found with
15 my clients, that if we got a decision, might not be the
16 exact decision they wanted to have, but it was something
17 that the parties could live with and they were able to live
18 with that.

19 And quite frankly, the majority of the items
20 when a real problem existed, they would come back. I would
21 find they weren't really following that court order to the
22 letter.

23 They had adjusted it to fit their family
24 situation. I think at that juncture a lot of parents are
25 not thinking when they breakup, what is going on.

1 There are a lot of emotions they can't put
2 aside. The breakup, they can't put their own anger aside to
3 concentrate on their issues. It needs to be someone from
4 the outside to come in and say this needs to be done.

5 I also think from an expediting issue, I agree
6 that the system needs to be on a fast track what could be
7 put through the courts quickly, that be done as
8 expeditiously as possible.

9 Again from trying to get a situation taken care
10 of as Attorney Desboy elated to sometimes you end up with a
11 situation where there's an artificial -- as I call it,
12 court-created status quo because of the delay in getting to
13 see a judge or getting into the system.

14 Suddenly the children or the parents have
15 created a situation like this and is what they've been doing
16 and a lot of times the statute says you look at the status
17 quo, what's the stability issue? And the Courts are saying,
18 this is what you've been doing for the past two years, for
19 the year you've been separated.

20 That's what we're going to do. That may not be
21 the situation that was going on when the parties were to go
22 and not, we're going to continue. I think I agree. I do
23 some limited traveling in my practice. Just the difference
24 between Cambria County and Blair County, how they handle
25 custody situations. Even Bedford County is tremendously

1 different.

2 I think that the statewide system is something
3 that is in dire need so that parents know when they're going
4 one place or another. You're not seeking people who may be
5 relocating to one place and they got a decision in one vein,
6 in one court, they go to a different county for different
7 reasons.

8 Suddenly it's thrown up in the air. I found
9 with the support system, I found that now we have a -- since
10 we have the statewide guidelines and mandatory situation
11 that it is fair. Extremely fair to everyone wherever you
12 go.

13 That's an ultimate goal that should be done in
14 family law so people are not flying out and waiting to see
15 what happens depending who they have and where they are. We
16 have comments.

17 CHAIRWOMAN COHEN: We have comments and
18 comments. I thank you for your presentation. You mentioned
19 Judge Baer. We always mention Judge Baer. These Bills 1976
20 and 1977, codify what Judge Baer has done.

21 We have visited with him many, many times and
22 seen how his process operates. And he really has set the
23 standard in this Commonwealth for the way domestic relations
24 should operate.

25 You did touch on a very interesting point, which

1 we have heard before, which is indeed the entire domestic
2 relations family law area of the court system is the child.

3 That is unfortunate because it probably does
4 effect many more people than the criminal system or the
5 other systems and we should give it priority. So I'm glad
6 that you brought that out and put that on the table.

7 Representative Dermody, do you have any
8 questions or comments?

9 REPRESENTATIVE DERMODY: Just a comment. Judge
10 Baer has done a fine job in Allegheny County, however, he's
11 doing that with the resources he has and believe me, if
12 you've been to the county building, it's far from perfect.

13 They made great strides. I would go into
14 criminal court and I feel safer, to be honest with you, in
15 criminal court. So we have a lot of work to do. I
16 appreciate it. I appreciate you coming by and talking to us
17 today.

18 The key is they're going to dedicate -- we have
19 to dedicate more resources to families and family division.
20 Thank you.

21 CHAIRWOMAN COHEN: I believe Ms. Mendlow has a
22 question.

23 MS. MENDLOW: I was wondering if you were GAL
24 for --

25 MS. GEORGE: For currently in Blair County,

1 Children and Youth Services there are a list of five or six
2 of us who serve. There's myself, Shawn Sullivan, who is
3 going to testify on behalf of the Domestic Relations; Tim
4 Sullivan, his brother; Beverly Myers, and Mary Anne Bislon,
5 are the list of the attorneys who have -- who serve as
6 Guardian Ad Litem for County Children and Youth Services.

7 REPRESENTATIVE PETRARCA: Did you say there was
8 a master system?

9 MS. GEORGE: There was approximately -- Ms.
10 Meadows can correct me if I'm wrong. I believe it was
11 December of 1998 we overhauled, for lack of better words,
12 our entire system.

13 We had, previously before that, had a master
14 system for custody wherein the first step you had was you
15 had a hearing before a master.

16 The master would make recommendations and an
17 order would be entered upon. If you disagreed with the
18 master's decision, you would file exceptions. You would
19 request evidentiary hearings.

20 At that point, it would be held in front of the
21 hearing officer. The hearing officer would hear the
22 evidentiary testimony taken from the parties and would --
23 this is in a normal situation, then would make
24 recommendations and orders to the Court.

25 The Court would normally adopt those. If you

1 disagree, you would then appeal to the Judge for a review,
2 an independent review by the Judge. That system was, I
3 believe, overhauled or somewhat done away with because some
4 of the decisions made and a couple other cases, which stated
5 that custody masters were not permitted to make decisions as
6 to primary custody.

7 Custody masters were to make decisions as far as
8 visitation or periods of partial custody. Our jurisdiction
9 and as well as other jurisdictions making a determination as
10 to primary physical custody.

11 It was also felt that giving the parents more
12 input into the decision making process, as opposed to having
13 someone dictate to them what would occur, would be a better
14 system. I'm not sure at this juncture having been involved
15 with it for a year, I -- Ms. Meadows can testify better.

16 I would hope to say in my years of practice
17 practicing under the master system, I had full custody
18 evidentiary hearings within -- probably in a matter -- I can
19 count them on my hand, four situations where I actually had
20 to go to a custody evidentiary hearing. I currently have
21 pending under the new system, four in the year.

22 It wasn't as nice. And some of those things
23 have to do with parents who can't -- who cannot reach a
24 decision and are obstinate. For example, I had just had a
25 young mother who disagreed or did not want the father to

1 have overnight visits with the 13-month old child until the
2 child was three or four years old.

3 She thought that would be appropriate at that
4 point to have overnight visits. He has been consistent with
5 the child and had the child for extended periods of time,
6 had the child over Christmas overnight. She felt that the
7 child wasn't able to do that until he was three or four
8 years old.

9 We luckily, between the attorneys and guide, did
10 force her into a stepped up situation. However, I'm not
11 sure that in three months we're going to be satisfied with
12 the decision. And in that situation, we'll be going before
13 a judge to make a determination.

14 I don't believe that that is a prudent use of
15 the Court's evidentiary system. That could have been a
16 situation where a master would have had a little more power
17 to say, This is the decision. I had not that many. I,
18 quite frankly, did not have a lot of cases where we even
19 took exceptions to the masters decisions.

20 As I said, most of the people, while it was not
21 exactly what they wanted, may not have been exactly what
22 they would have done. They would have been able to live
23 with it. If they weren't, they adjusted with themselves,
24 between themselves.

25 CHAIRWOMAN COHEN: Again, our thanks to you and

1 I want to check our Court Reporter. You're okay? The next
2 person we're going to get out of order would be Dr. Patrick
3 Wardell. We thank you for being here. We appreciate you
4 coming to make the presentation. You may proceed.

5 DR. WARDELL: Good morning. As indicated, I'm a
6 professor of social work at Lock Haven University and, at
7 this point, I'm program director. Prior to that time, I was
8 field coordinator for 10 years. Prior to that, I was field
9 coordinator at Pennsylvania State University.

10 I have worked with agencies doing field
11 placements throughout the Commonwealth. In addition to
12 working in education, I worked in Erie from 1963 to 1971 as
13 a caseworker, supervisor and assistant administrator in Erie
14 County Children and Youth Services.

15 I also did custody evaluations in Erie County,
16 at that point in time. Between 1982 and 1987, I was a
17 consultant to Centre County Children and Youth Services
18 working with high-risk adolescents and their families. My
19 primary goal was to prevent family breakup.

20 In 1988, myself and a number of other colleagues
21 formed Wardell and Associates, a family intervention crisis
22 service program, a private organization. We started out in
23 Centre County working on long term family support services.
24 At the present time, we operate both in Centre, Clinton and
25 Blair Counties.

1 We have over 62 employees under contract with
2 children and youth services and juvenile probation services.
3 We have somewhat different services in each county. Centre
4 County we provide family support services on a long-term
5 basis; family preservation services, which is time limited
6 for 90 days and that more recently within the last two
7 years, family reunification services.

8 In Clinton County, we provide an adolescent day
9 treatment program where we're working with young people from
10 8:00 in the morning to 8:00 at night and a school component
11 that also works with their families.

12 This is the last stop before placement. We
13 began a pre-adolescent day treatment program within the past
14 year where we're working with 7 to 10 year olds in the
15 schools and after school in an after school program.

16 In Blair County, we have family preservation
17 services, independent living services; and as of July 1999,
18 family reunification services. I personally serve as
19 Executive Director of the agency, but as part of our
20 mission, which involves empowering consumers and empowering
21 ourselves, I have continued to provide direct services to
22 high risk children and families in both Centre and Clinton
23 Counties.

24 I'm involved more presently in Clinton County
25 because of my role at the university. I have appeared to

1 speak in favor of House Bill 1976 and House Bill 1977, Task
2 Force of Domestic Relations House Judiciary Committee's
3 Reform Family Court.

4 I will state at the beginning of my remarks, the
5 only reservations that I have is the fact that without
6 adequate financing, it could involve an unfunded mandate,
7 which is always a concern in counties in Pennsylvania.
8 However, despite this concern, it's my belief that these two
9 bills are very favorable.

10 Particularly, when I look at the issues that are
11 involved; divorce, custody, child support, spousal support
12 and equitable division of marital property is very
13 worthwhile. The idea of a resource center is so help can be
14 provided to these families unable to afford a lawyer is very
15 empowering if adequately funded.

16 My experience in all of the roles mentioned
17 previously convinced me the requirement of continuing
18 education for family court judges and masters in the
19 substantive and procedural law of family litigation, child
20 development and child psychology, child sexual abuse and
21 exploitation, child abuse and neglect, a domestic violence,
22 mental and behavioral health, drug and alcohol abuse, as
23 well as financial aspects of family litigation, such as
24 taxation, trusts and estates, employee benefits, workers'
25 compensation and business valuation; and place family

1 masters under the jurisdiction of the Judicial Conduct Board
2 to approve the mentioned.

3 I really would like to highlight the aspects of
4 the Bill I see that is very important, protects and assures
5 the present and long term safety of children, safety of the
6 victims of domestic violence, which is badly needed and it
7 eliminates barriers to a meaningful dispute resolution
8 enabling family members to deal with the same court officers
9 and staff each time they need the Courts and dispute
10 resolutions by reducing duplication and fragmentation of
11 court events. It establishes a differentiated case
12 management system based upon the degree of complexity with
13 one team, one judge, one family approach.

14 It establishes case management conferences,
15 mandatory judicial education for family resource centers,
16 family justice accounts and, five, a system, the point that
17 I'm highlighting the most, a system to safeguard children.

18 I like this very much because it allows the
19 Judge to appoint the Guardian Ad Litem, court-appointed
20 special advocate for custody support issues whether there's
21 a history of or an allegation of child abuse and neglect,
22 child sexual abuse or exploitation or allegation of domestic
23 violence against one party by the other. The Judge must
24 appoint a Guardian Ad Litem or court-appointed special
25 advocate for the child.

1 I personally have worked with a number of
2 families where custody issues, parent/child relationship
3 issues are such there are conflicting interests between the
4 children's interest and the parents' interest. I think it's
5 important to point out here that when I look at my
6 experience from three different counties, particularly
7 Clinton County, that we look at the functions of a Guardian
8 Ad Litem and in terms of the different roles they can play.

9 I highlight first as an investigator of
10 background information for the Judge; second, as an advocate
11 of the child's rights and interest; third, as a counsel who
12 helps the child in the expression of his or her wishes in
13 court; fourth, as a court watch dog who submits a written
14 report of disposition and assures that the child's best
15 interest are protected and sees that court orders are
16 followed.

17 The distinction here between the special
18 Guardian Ad Litem and a lawyer serving as Guardian Ad Litem,
19 each case may indicate different needs. An attorney, in
20 contrast is bound by the child's own determination and best
21 interests if the child is considered capable of considered
22 judgment.

23 A Guardian Ad Litem has a duty to promote the
24 child's best interest and in carrying out that duty to go
25 against the child's wishes. In short, a dilemma may

1 confront the child's representative when courts combine the
2 roles of child's attorney and Guardian Ad Litem when the
3 child is too young or otherwise impaired in decision making
4 and self-determination.

5 A system to safeguard children requires that we
6 recognize the potential conflicting interest between
7 children, their parents and system philosophies. I've
8 witnessed the conflicts between family preservation, the
9 best interests of the child, the short and long term
10 implications might is right philosophy, parents shooting
11 arrows through their children, the damages of emotional
12 neglect and the system neglect that occurs particularly in
13 rural counties, where a family law case is split into its
14 component parts to be presided over by different officers of
15 the Court. For example, child support is heard by domestic
16 relations officers who are not lawyers.

17 They're heard by masters in some counties and
18 judges in others. A master or custody mediator may hear
19 custody. A master or judge depending where the judicial
20 district is adopted, a two-tier, three-tier approach for
21 resolution of these cases.

22 We hear the appeals in Clinton County. Two
23 years ago, we worked with a master and now there are just
24 two judges in Clinton County, one who hears all juvenile
25 cases. In fact, we've combined a number of hearings into

1 one.

2 At different points, it could be a very
3 complicated kind of situation efficiently when you're trying
4 to work as an advocate for the child and preserve the family
5 unity.

6 In many rural counties when there's only a
7 couple judges they are very hesitant to take on judges in
8 certain types of situations to be a true advocate because of
9 the fact that they're practicing in that county on a regular
10 basis.

11 I'm prepared during the question and answer
12 period, if necessary, to discuss the specific case
13 situations that I personally have been involved with where
14 the current procedures do damage to the children and
15 families and complicate the process and leave people
16 powerless, fearful of the system that is uneven and
17 arbitrary.

18 It is certainly not empowering for poor people
19 who suffered effects of oppression and do not trust the
20 system to be helpful. The juvenile court, the public child
21 welfare agency and parents all have legally sanctioned
22 rights and responsibilities to the child with these
23 interests, maybe conflicting, overlapping and not
24 well-defined.

25 Children are often left with the powerless

1 feeling that those who decide where they live and other
2 important life issues are remote strangers. In conclusion,
3 I believe this legislation is definitely a step in the right
4 direction when used in connection with the Juvenile Act and
5 the Child Protective Services Act is in the best interest of
6 the children.

7 The only thing I would add to my prepared
8 comments was when I look at family reunification services
9 the 15 month time limit when children are in placement where
10 we either terminate parental rights or return them, we have
11 an average of four to five visits a week with natural
12 parents, parent/child aid and family workers in there and
13 our court is one day a week in Centre County alone.

14 Just dealing with the conflicts between
15 permanency planning, where planning whether they could be
16 safely reunited, I've often thought that at times we're in a
17 conflicting role where we're acting as advocates like
18 Guardian Ad Litem for the child under contract with the
19 Children and Youth agency.

20 We're also trying to work with the parents and
21 therapists in that control treatment role which can be a
22 problem at times. I can see where even when I look at after
23 there's a need for Guardian Ad Litem in those types of
24 situations.

25 CHAIRWOMAN COHEN: Thank you, Dr. Wardell. This

1 was an eye opener from your testimony. I want to assure you
2 I'm glad you brought up the issue of unfunded mandates.
3 We're in the process of developing a unified court system.
4 We look at funding the courts.

5 The last thing we want to do is make a
6 presentation an unfunded mandate. We deal with those every
7 day. We have bills before us every day to -- in fact,
8 yesterday, in a committee that I am on, we hope a bill will
9 be passed there which will require the State to fund in the
10 future all mandates coming down from the State.

11 The last thing that I think we, being the Task
12 Force, we see from both Houses of Legislatures, the last
13 thing we want to do is place more burdens on the counties
14 with unfunded mandates.

15 We are fully aware. We know we have the
16 responsibility with these two Houses and these proposals to
17 fund them as well. Any questions down here? Any questions?

18 REPRESENTATIVE DERMODY: No.

19 CHAIRWOMAN COHEN: Counsel Dalton has a
20 question.

21 MS. DALTON: Thank you for coming, Dr. Wardell.
22 You mentioned in your testimony at the end that you could
23 illuminate actual cases where people were not getting what
24 they needed, especially, folks who don't have the money to
25 litigate the lengthy drawn out process for dissolution of

1 marriage, equity and distribution of property.

2 Could you give us an example, please, how that
3 was and how these bills will help?

4 DR. WARDELL: It's a case that I was involved
5 with last summer where the father and his parents had more
6 resources than the mother. It involved a young boy, 10
7 years old and a 13 year old female.

8 And prior to that, they had already been
9 divorced, but there had not been a custody hearing as such.
10 But because of some problems the 10 year old had had,
11 somewhat problematic, he had been angry with another boy on
12 the bus and went to the grandmother's house and grabbed a
13 rifle and pointed it at the school bus.

14 It was not loaded on this day and at an age
15 especially like Columbine and other things, it created a
16 situation where the father and his attorney were able to
17 convince the Judge that the kids would be better off living
18 with him even though there was not a custody hearing because
19 he could provide more control and until the situation up at
20 the grandfather's, the mother did not have the money.

21 She was working to pursue -- to get good legal
22 counsel and was intimidated in just going along with this.
23 It wasn't in the incident, in timing that this occurred. We
24 were able to come in and do an independent evaluation of
25 each family's resources, come up with recommendations.

1 Equal rights were dealt with.

2 We were able to have a joint custody situation
3 where the mother has primary custody of the children and
4 that they do spend weekends with the father. But prior to
5 that time, the court believed on the basis of informal
6 procedures and the interesting thing is both judges had
7 personal connections to each member of the family.

8 I don't want to get in to say there was any
9 wrong or conflict of interest per se. If there had not been
10 independent parties looking at each family situation,
11 working with the kids, independently doing a complete
12 thorough evaluation, she would not have had her rights
13 represented and would not have been able to deal with the
14 children in a proper way.

15 She was really willing to be cooperative and
16 look at what was in their best interest and was letting the
17 father and his family who had more resources actually
18 intimidate her, just going along with things.

19 They had also had a private psychiatric
20 evaluation where a psychiatrist had seen the kids for 20
21 minutes and made a recommendation to the lawyer. They took
22 from the Judge, the kids should be with the father.

23 MS. DALTON: The second -- the other part of my
24 question was, what do you see in these House bills that
25 would help that, kind of ameliorate the situation?

1 DR. WARDELL: I see the training element for the
2 Judges and Guardian Ad Litem at best would be looking at the
3 best interest of the children.

4 MS. DALTON: I'll add one more, the Family
5 Justice Act, they're going to be able --

6 DR. WARDELL: They would be able.

7 MS. DALTON: They would have to have those
8 processed even though they can't afford it.

9 MS. MENDLOW: I have a comment, not a question.
10 I think in terms of the issue of Guardian Ad Litem, I just
11 wanted to share with you, there is consideration in the
12 House, with some luck it will be considered next week,
13 that's House Bill 1801 and it does deal with the mandatory
14 appointment of the Guardian Ad Litem.

15 And it does deal with those issues, very
16 eloquently described on Page 2, in terms of the conflict
17 between the counsel and the Guardian Ad Litem in the
18 children's best interest was, I would like to ask you, was
19 in the issue of the appointment of the Guardian Ad Litem in
20 these custody cases, do you think it would be helpful to
21 perhaps narrow it to these cases where allocations have been
22 substantiated by the county children and youth program?
23 I've had some of the questions before.

24 DR. WARDELL: I personally think it would be
25 better to do it in those cases where there have been a

1 substantiated claim, otherwise, you would spend an awful lot
2 of time in a situation where it really isn't warranted.

3 CHAIRWOMAN COHEN: Thank you, Dr. Wardell. We
4 appreciate your very complete testimony. At this juncture,
5 I want to welcome Representative Stern, another one of our
6 House Members who has graciously joined us. Any comments
7 you want to make?

8 REPRESENTATIVE STERN: I would like to welcome
9 you to Altoona today.

10 CHAIRWOMAN COHEN: We appreciate your
11 hospitality. Is Kelly McCreary here or Sharon Rose Lopez or
12 Lauren Jacobson? These are the last three people to
13 testify. Why don't we take a break to see if anybody shows
14 up.

15 (Break).

16 CHAIRWOMAN COHEN: Thank you, Ms. Lopez. We
17 appreciate you being here. The next person to testify is
18 Sharon Rose Lopez from the Pennsylvania Coalition Against
19 Domestic Violence. Welcome. We like your City of Altoona
20 and any time you're ready.

21 MS. LOPEZ: Thank you for this opportunity to
22 give testimony about this important legislation.
23 Pennsylvania Coalition Against Domestic Violence supports
24 the passage of legislation to ensure safety, justice and
25 restoration for the rights of battered women and children in

1 the courts of Pennsylvania.

2 For these reasons, I will discuss below, PCADV
3 does not believe that House Bill 1976 and 1977 adequately
4 provide for these goals despite the fact of unified family
5 court. We do need to work on achieving better.

6 The goals that we measured the system by are,
7 first of all, the judicial system must deliberately
8 incorporate ways for judges to focus on the safety of all
9 parties, rather than emphasizing ways parties can conciliate
10 their differences.

11 I summarize the following, the procedural
12 requirements of the bill are formidable and the emphasis is
13 on conciliation efforts rather than hearing litigants and
14 deciding cases.

15 First, a litigant must file the complaint and
16 the family information statement to start a case in the
17 court. Then the litigant must participate in the case
18 management conference.

19 Afterwards, the Judge issues an order with the
20 discovery schedule and the appointment of Guardians Ad Litem
21 and a fixed trial date. The party must submit to mediation
22 and separating parents seminars.

23 Although Section 7222 provides for exceptions to
24 the required mediation, it has been my experience and
25 practice that litigants and court workers do not understand

1 and follow these exceptions. They see mandatory mediation
2 and assume it means what it says. Furthermore, a litigant
3 must disclose abuse in the order to opt out of mediation.

4 This is problematic because this particular
5 disclosure will trigger the mandatory appointment of the
6 Guardian Ad Litem for any children in the action. To make
7 matters worse, if she failed to disclose the domestic
8 violence on the family information statement when she
9 initially filed, she maybe subject to criminal charges.

10 In addition to the mandatory mediation, the bill
11 requires the litigant to submit to separating parents
12 seminar. While some of the information provided in this
13 seminar can be helpful to litigants, the information without
14 assistance of legal counsel or domestic violence advocates
15 may result in very poor and dangerous decisions.

16 The focus here, number one, is on the safety and
17 justice and not on reducing court dockets and conciliation
18 methods for litigants. Without safety within the judicial
19 systems, we are merely providing yet one more human service
20 plan and not functioning as a court that provides access to
21 justice. That should be critical.

22 The second point we measured the legislation
23 against is the system must provide prompt intervention and
24 judicial relief from long, drawn out processes.

25 The tracking system in this particular

1 legislation seems confusing and difficult to manage. Section
2 7213 requires judicial districts establish a differentiated
3 case management system.

4 The litigation is assigned to one of four tracks
5 based on factual and legal difficulty. At the initiation of
6 a proceeding, a case may seem legally and factually simple.
7 It is only later that discovery bears forth the legal and
8 factual difficulties of the case.

9 Although the bill provides for the transfer of
10 the litigation to another track with good cause shown, this
11 could mean the battered women who files an action without
12 assistance of legal counsel, may file in the one track and
13 only discover that the track is wrong.

14 The batterer is likely to use her attempts to
15 transfer the case to the appropriate track as a means of
16 control and manipulation. The unified family court system
17 is set up to have cases move more easily throughout the
18 system.

19 This works to the batter's advantage. My guess
20 is that a litigant trying to change case tracking will
21 encounter much resistance from the court. This emphasis is
22 on managing the case and not on providing proper judicial
23 intervention when needed.

24 Another problem is that access to a judge only
25 happens if the litigant files an appeal from a family law

1 master's decision. This decision is rendered after the case
2 management conference, after mediation, after separating
3 parents seminar, after the child custody evaluation and
4 after the fixed trial date.

5 That's a lot of hoops. If a litigant gets this
6 far and still has resources, money, to hire an attorney,
7 they can file an appeal and get their case before a judge
8 only then the system did not provide for swift intervention
9 by a judge.

10 The third point that I measure this legislation
11 against is the court system must shield from identifying
12 information from perpetrators. The intake process of the
13 bill requires the family information statement be completed
14 and filed with the court under Section 7212.

15 While most of the information required on the
16 family information statement is consistent with present law,
17 many of the required information is over reaching and
18 disclosure could be very detrimental to battered family
19 members trying to leave an abuser.

20 The section requires litigants to file an
21 extensive family history, including abuse and neglect of a
22 family member, substance abuse and whether a family member
23 has had contact with the juvenile justice system.

24 Why is all this information needed to get a
25 custody determination or divorce decree? This information

1 need not be disclosed in simple divorces and could be
2 prejudicial if presented in the wrong way to a poorly
3 trained case management team.

4 Furthermore, if the intent of the legislation is
5 to reduce the adversarial nature of the family practice, you
6 can be assured that inflammatory statements in this
7 information statement would do little to encourage
8 settlements and conciliatory resolutions of the family law
9 matters.

10 Of particular concern to me is the required
11 disclosure of substance abuse. Substance abuse is a very
12 real problem that intensifies violence in the home, however,
13 traditional treatment methodologies just for substance
14 abusers and their family members engages the co-dependency
15 model of treatment. The co-dependency model of treatment is
16 counter-indicated for battered family members.

17 Teaching the family member that they are
18 enabling the substance abusers addiction reinforces the
19 message that they're to blame for abuse that's from the
20 abuser or that if the abuser would not drink, they would not
21 abuse as well.

22 Neither of these statements is true, therefore,
23 referrals to drug and alcohol treatment programs could be
24 dangerous for battered women as it may relate in continued
25 co-habitation or inappropriate compromises in litigation.

1 Furthermore, some battered family members use
2 alcohol as a way to escape the abuse and they self-medicate.
3 This is an unfortunate coping mechanism that maybe wrongly
4 identified by a front line court worker or the family law
5 master resulting in the victim being identified as a family
6 member with the primary problems in the family rather than
7 batterer being identified as the primary problem in the
8 family.

9 The fourth point that I measured the legislation
10 is the judicial system must ensure victims of domestic
11 violence have access to confidential, independent advocacy
12 in all court proceedings. It's a lot to go on. But in
13 this particular legislation, the manual is what came to
14 mind. The manual that will be provided has many forms and
15 information about court filing documents.

16 This may appear harmless and helpful and it is
17 part of the family unified court systems, but the manual
18 cannot replace advocacy. Every lawyer in Pennsylvania, in
19 United States, knows that the procedural aspects of family
20 law litigation vary from county to county.

21 There are 67 counties. Does that mean there are
22 67 manuals with 67 procedures? In addition, sometimes the
23 procedural practice can make a world of difference in a
24 case. Procedure is part of strategy and the decision making
25 process. Information about the procedural pitfalls and

1 opportunities may bring about disastrous results for
2 families, but especially for unrepresented victims of
3 domestic violation.

4 This bill provides an admonition that
5 information from court personnel should not be construed as
6 advice. That's all very well and good. The bill also
7 provides that court personnel are immune from suit as to
8 information given.

9 Every lawyer who supervises a paralegal, knows
10 that information can be advice sometimes and that the line
11 drawn between the two is very fuzzy. Providing immunity may
12 protect the court from liability, but who will fix the
13 problems caused by this misinformation and bad advice? The
14 more we give front line staff to inform litigants about, the
15 more susceptible they're to giving bad information.

16 Training is needed, but that is not the sole
17 issue. It is the poor and the ones in need of emergency
18 services. They're the ones who will not seek counsel before
19 filing. Battered women who are considering legal options to
20 flee abuse will be more likely to pay the consequences of
21 front line staff misinformation.

22 I understand the bill does exclude protection
23 from abuse proceedings from this particular system, but
24 battered women don't always self-identify when they do enter
25 the family court system through divorce, support and

1 custody.

2 That's why I thought this was important. The
3 fifth point I measured the legislation by was that human
4 service agencies should not have access to confidential
5 access contact reports. The safeguards in this legislation
-6 are inadequate to provide for confidential treatment of
7 intake information.

8 Section 7209 requires that each judicial
9 district to screen and refer litigants to human service
10 agencies and government agencies.

11 Court personnel who complete the screening and
12 intake who have not been properly trained are the front line
13 workers in this unified family court system. Screening and
14 assessment for the problems identified in the bill take a
15 tremendous amount of training.

16 In the domestic violence and sexual assault
17 fields, volunteers who work with callers and victims are
18 required to complete 40 hours of training before they can
19 write any direct service or screening. PCADV's present
20 probation and parole project requires three days of training
21 for already skilled probation officers to learn how to
22 identify and assess the lethality of Defendants. If a court
23 worker is able to identify the litigant as a victim, how
24 will the referral they make effect that person's life?

25 In the case of battered women, a phone call to a

1 government agency like a police department when an intake
2 worker sees a black eye may result in the escalation of
3 abuse. The statute does not require front line staff to
4 receive training so they should not charge them with the
5 duty of screening for abuse and neglect.

6 There are human service agencies that provide
7 human services. It is to provide access to justice for
8 litigants who cannot achieve justice on their own.

9 When a litigant, who is battered comes to the
10 courthouse door to file for divorce, custody or support, she
11 does so because she needs the arm of the court to empower
12 her. This bill proposes a system of justice that is really
13 a system of screening, referral, delay and deterrents.

14 Family information statements provide confidential
15 information to human service agencies and perpetrators of
16 domestic violence. This should not be the role of the
17 court.

18 The other points I would like to make are the
19 following: The bill requires the appointment of a Guardian
20 Ad Litem if abuse is alleged. This is a serious deterrent
21 for battered family members to gain access to the court.

22 Parents assume they are the persons most likely
23 to know what is best for the child. An appointed Guardian
24 Ad Litem could be easily manipulated by a batterer and the
25 need for a guardian is questionable in many cases.

1 The cost of the Guardian Ad Litem is formidable.
2 Low income, working families will not be able to afford this
3 assignment, neither is it likely they will qualify for the
4 waiver of this cost.

5 This is a serious block to justice. It can be
6 said with certainty that affordable representation for low
7 income working poor in Pennsylvania is already in short
8 supply. Finding well-trained guardians in small rural
9 communities is an insurmountable task.

10 Another point I would like to make, the unified
11 family court system should be developed by the court, not
12 the legislature. Over the past decade, the American Bar
13 Association has been discussing the need for family court
14 reform.

15 It has been a thoughtful and deliberate
16 discussion that carefully weighs the factors that must be
17 considered. Over the past four years, I'm aware the
18 Pennsylvania Bar Association has been going through the same
19 thoughtful consideration of the issue.

20 They have been gathering information and
21 discussing the proposed options with various stakeholders,
22 including the Pennsylvania Coalition Against Domestic
23 Violence.

24 As a lawyer, I believe that the Pennsylvania
25 Supreme Court with the counsel of the Pennsylvania Bar

1 Association is the appropriate place for the reformed court
2 system to be developed.

3 The separation of the branches of the government
4 and the need for independent judiciary also requires that
5 such reforms be developed by the Supreme Court rather than
6 the legislature.

7 I ask the Committee to allow that process to
8 continue and permit the Pennsylvania Supreme Court and
9 Pennsylvania Bar Association to finish their proposals for a
10 unified family court in Pennsylvania rather than to move
11 this bill forward. Thank you.

12 CHAIRWOMAN COHEN: Thank you, Ms. Lopez. Most
13 of us have questions and comments. I have to make my usual
14 speech and I think you hit it in your last comment about
15 other points.

16 The reason that we are here today, I'm an
17 attorney, I've been a member of the Bar. I graduated from
18 the University of Pennsylvania and its law school and have
19 been a member of the Bar since 1965.

20 I have to tell you that the reason we're here
21 today, the reason that we've been working on this for many
22 many, many years is because the courts have not done their
23 job.

24 The Courts have made the people of Pennsylvania
25 suffer. Economically, emotionally, physically in every way

1 shape and form. We had a hearing in Allentown last week. I
2 have to tell you we had members of the judiciary and the
3 members of the Bar Association.

4 I asked the Judge to testify, how come all of
5 the sudden, since these bills have been introduced since we
6 got public, say all of the sudden the courts have been
7 sitting on these issues full of complaints from everyone
8 including the members of the Bar. They practice before the
9 courts.

10 How come the courts have suddenly started to
11 reform themselves? Only Max Baer from Allegheny County,
12 Paul Patino, from Philadelphia County and some Judges in
13 Montgomery County over the last few years have begun to
14 reform the court system but the Judges who have not done
15 what they're supposed to do.

16 And that's why we need a constitutional
17 amendment because the Judges have said we're now over
18 stepping our bounds. I'm telling you we're not over
19 stepping our bounds.

20 We're doing what we have to do because the
21 Courts from the top down, from the Supreme Court down to the
22 county courts have failed the people of this Commonwealth
23 miserably and our job as legislators are to represent the
24 people and make their lives better.

25 It is an absolute disgrace that an arm of the

1 government causes pain and suffering to its own people.
2 That's the court system. I'm telling you this as a member
3 of the Bar.

4 That is why we need a constitutional amendment.
5 There is no question in my mind we're not over stepping our
6 bounds. We're doing what the court should have been doing
7 for years.

8 I find it almost amusing if the situation
9 weren't so painful, it would be funny that all of the sudden
10 now we're having presentations by judges all over the place,
11 that, well, we're instituting this reform and this reform.
12 Where in the heck has the court been for decades and
13 decades. When the human cry from the people has been out
14 there.

15 I think if you read these bills more carefully,
16 you will see that a lot of your questions have been
17 answered. In one point you asked, does this mean there
18 will be 67 manuals with 67 procedures, in fact, indeed, that
19 is again one of the reasons why we're here.

20 This is a unified system that we are
21 implementing. There are 67 counties obviously there will be
22 discretion among the team members, the judge all of the
23 professionals involved to take into account colloquialisms
24 in various local jurisdictions. We are diversity, very
25 diverse.

1 We are urban, suburban and rural. We need to
2 take into account different customs in situations in
3 counties. There will be one law so people can't go from
4 Montgomery County to Blair County to Allegheny County to
5 jurisdictional shop to get their justice the way they see
6 it.

7 There will be one law for judges and one law for
8 people. That's why we want to have this pro se manual so
9 people can be educated. You talk about expenses for the
10 poor, unfair treatment for the poor, that's just not the way
11 this system will operate.

12 The system will operate the same way for the
13 rich and for the poor. The costs will be borne by the
14 legislature and the unified court system. Our goal is not a
15 law for the rich and a different one for the poor, let the
16 poor suffer.

17 That's simply not our goal. If you read these
18 bills a little more carefully, you will see that indeed,
19 what we're after is we were told earlier this morning we
20 can't use the word justice or shouldn't use the word
21 justice, indeed, I think the words justice embodies word
22 such as fairness and compassion for people because that is
23 our job as Legislators.

24 Just on a different view, the organization that
25 you represent, I have to tell you what I have done and we're

1 trying to export it into the entire Commonwealth. I had the
2 most -- I did a month long project. It was supposed to last
3 from November 15th to December 15th.

4 I collected old cell phones. I gave them to
5 Bell Atlantic Mobile. Bell Atlantic Mobile deprogrammed --
6 took out every program that was on the cell phone. We've
7 given them to women's shelters. They push one button. They
8 don't have to punch up three numbers.

9 One number will summon medical and police help.
10 We gave these phones to our county shelter and women's
11 center. We found that very few women go to shelters.

12 So now in February, the end of this month, what
13 we're going to do is work with our county district attorney
14 that by the way, in one month I collected 2,000 cell phones
15 from the tri-state area.

16 What we're now doing is the phones they keep
17 coming in and appearing in my office. What we're now doing
18 is working with the district attorney. When women go into
19 court they will walk out with a PFA in one hand and a
20 programed 911 cell phone in the other hand.

21 These phones will not be programed to receive
22 in-coming calls so that the batter or abuser will not be
23 able to trace by way of the cell phone, trace their victims
24 nor will the victims be able to call her hairdresser or girl
25 friends or anything. These cell phones will be to dial

1 911. We like to export it throughout the Commonwealth.

2 Maybe because it's my program I think it's
3 terrific that we will -- everyone that contributes old cell
4 phones. We have all got old phones lying around the house.
5 We have gone analog to digital. These phones, every human
6 being that has -- all 2,000 people in the tri-state area
7 that have given me a cell phone, they have saved a life.

8 That's what we're hoping to do. I know other
9 people have questions.

10 REPRESENTATIVE DERMODY: I just have a few. I'm
11 really passionate about this.

12 MS. LOPEZ: I want to respond to that. I
13 recognize the intent of this -- certainly the issue of the
14 separation power is not the focus of my comments today.
15 That's the very real reason I wanted to honor this
16 Committee's work and respond to the substance of the
17 legislation.

18 I hope I did that. I tried to use guiding
19 principles that effected battered women, how we view the
20 system itself especially since not all -- as you said, not
21 all women go to shelters not all self-identify, they're
22 going to be victims going through the system. We need to
23 figure out a way to make sure the system works for them.

24 I do honor and respect your position. I wanted
25 to make sure the Committee knew that I definitely do take

1 serious the charge of testifying today to look at the
2 legislation.

3 CHAIRWOMAN COHEN: Understand we're doing our
4 best. It's not a perfect world and this isn't a pantsy am.
5 We're taking suggestions. We want to make it as perfect as
6 we can.

7 When my son was a little boy, he used to say,
8 mom, you can't save the whole world. My response to him
9 was, but I can sure as hell try. That's exactly what we're
10 doing now.

11 We're trying to make it as perfect a world as we
12 can. We wouldn't get there but we sure as hell are going
13 to try.

14 MS. LOPEZ: That's right. I'm right there with
15 you.

16 REPRESENTATIVE DERMODY: Just a few -- I want to
17 thank you for your testimony today and you have made some
18 good points about some problems of the legislation
19 particularly access to private and confidential information.
20 I'm sure that issue will be addressed but it's a very good
21 point and it needs to be addressed.

22 I also think you're correct in that the poor
23 certainly wouldn't have access to the system the way that
24 those who can afford an attorney have; not to go through the
25 legal mumbojumbo who would have to go through with this.

1 That's the case we certainly need to make sure
2 we provide adequate funding to make sure they have access,
3 all people have access, not only to the court system but to
4 a judge. That isn't done, then this is just teasing
5 people.

6 I also like to ask you a question. You
7 mentioned here about the American Bar Association,
8 Pennsylvania Bar Association taking steps to improve the
9 system. I've been in the legislature almost 10 years.
10 We've been doing this, working on domestic family meetings
11 and task forces and everything else we're trying, however,
12 they have not done much either if they have come around.

13 Now, it's because of this legislation that's
14 forced them to take an issue. What makes you think they're
15 any closer than you were before?

16 MS. LOPEZ: You made reference to the Bar
17 Association. I think I did say that they were doing
18 thoughtful deliberation and consideration. I've certainly
19 read quite a number of articles in the ABA Journal sponsored
20 by ABA members on this issue. So it's a hot issue around
21 the country today.

22 REPRESENTATIVE DERMODY: It's been hot.

23 MS. LOPEZ: And it is a state issue. It is
24 absolutely a state issue. I think that his Committee has to
25 take credit for, you know, provoking the discussion further.

1 If I may say so, I think you're right. I think this
2 legislation is pushing us towards having unified family
3 courts in Pennsylvania much sooner.

4 As a lawyer and as someone who has practiced in
5 the field, also, now as a policy maker, I can tell you we're
6 constantly weighing even the simplest phrases in an amended
7 piece of legislation as to how it will harm or benefit
8 somebody.

9 So I can see how someone in this particular
10 charge, with this particular charge would get frozen. It's
11 a huge task to take on, reforming a family system. I think
12 you should get credit for taking steps to actually try it.

13 I think that there are ways, principles that I
14 like. I like how it is trying to protect children. I like
15 that court proceedings for somebody where it can be private.
16 Where no other parties are present, sequestration, if you
17 will.

18 I like that the children are protected and not
19 forced to testify unless a court examines whether the
20 child's testimony is relevant and they're incompetent to
21 testify under the age of eight. I think the threshold is
22 eight.

23 I think there are safeguards present in the
24 legislation that I certainly do appreciate knowing that. In
25 the little time I had today, I wanted to make sure,

1 concentrate on the things battered women would be most
2 subject to. That's the negative emphasize of my testimony,
3 but there are things that need to happen.

4 Whatever the Pennsylvania Bar Association and
5 the Supreme Court is doing now may in fact be as a result of
6 this legislation. Nonetheless, it's provoking the
7 discussion. I can't take responsibility for that. But I
8 did want to come before you today and let you know we do
9 need to be working on this.

10 I do appreciate you having our consideration on
11 the record.

12 MR. DERMODY: Thank you very much.

13 CHAIRWOMAN COHEN: Thank you. I think Counsel
14 Dalton has some comments.

15 MS. DALTON: Here we are again, Ms. Lopez. I do
16 have some questions about your testimony. You said before
17 that there were a lot of hoops, the hoops in the way the
18 system is designed in the bill. I want to go through with
19 you what we kind of already have because folks have taken
20 issue with the existing issue system we have because there
21 are too many hoops because the county is different.

22 Some don't follow the rules of the civil
23 procedures essentially, we have something like this if
24 there's a divorce it starts with a master, the divorce
25 component is split under the divorce code. If custody may

1 go to the mediator or may go to the conciliator or a
2 different master then the master with the divorce part when,
3 in fact, that's split from the others. Then you have the
4 equitable division, all the economic issues as Montgomery
5 County where you have a master doing the equitable
6 distribution.

7 I don't think they're the only county that has
8 that set up. You have a family, a mom, that maybe has a
9 couple of kids. She has to take time off from work to get a
10 baby-sitter, she's going to make three separate court
11 appearances. We didn't even talk about support.

12 You're in a conference over child support,
13 sometimes a master. Depends on the system the county is
14 going with. They apply guidelines, often times, they don't
15 take into consideration the law in Pennsylvania that you go
16 outside these guidelines, which then necessitates an appeal
17 to someone who has legal training.

18 You're talking about four legal appearances.
19 You're going to appeal them, you multiply that by two. Some
20 accusations, you don't get to a judge. The third time, one
21 of these extremes that's for child support, you can also
22 with equitable division, I'm wondering on the system we
23 have.

24 The system Chairwoman Cohen is proposing is we
25 have a consolidation of court appearances where you take

1 that fragmentation and throw it out. I'm wondering how you
2 can't see this is an improvement over what we already have?

3 MS. LOPEZ: Well, consolidation as a theory, I
4 think, is definitely an allowable goal. It does create a
5 lot of scheduling problems for family members who are in
6 court. The truth of the matter is most people that go into
7 court, into litigation for family law, are not doing complex
8 litigation.

9 Most of them it is simple. If we can have a
10 more simplistic, more simple tracking system, I think the
11 four tracking system is a little bit too cumbersome.

12 If it was an entry point and decision point made
13 by a decision maker, not by the intake worker, I might feel
14 more comfortable with the issue I didn't raise because of
15 the limitation of time.

16 I have a concern about consolidation of cases of
17 appealable error when you have open cases with relevant
18 facts being different from each case, facts that are not
19 relevant, but prejudicial in one, effects the decision in
20 the decision maker?

21 How do you divide that up? That's one of the
22 concerns you have to look at when you're looking at the
23 unified family court systems. That wasn't addressed in the
24 legislation. I had some concerns about that, but, I did
25 really want to go into that today.

1 MS. DALTON: Let's talk about that for a second.

2 MS. LOPEZ: I do want to make sure I really
3 think that's critical.

4 MS. DALTON: Let me see if I understand you
5 correctly. When you're talking about facts of cases getting
6 interwoven do you mean dependency, certain facts moving over
7 in divorce cases and spilling over in dependency?

8 MS. LOPEZ: You're separating them out, the
9 divorce, custody, support, you know, the different factors
10 that are considered, the different measuring points and
11 elements of each case what is admissible and not admissible.

12 I can't think of anything right off the top of
13 my head. I can see the potential here, so maybe if we
14 divided, maybe we set custody separate from the other two,
15 from divorce and support, that might work better. I just --
16 because the issues are closer, it's combining all three of
17 those. I see there being a real problem.

18 MS. DALTON: Just to clarify the custody element
19 is broken off. It goes to a mediator or except as you said,
20 good reasons, not to in the case of domestic violence.
21 We've heard from at least two Guardians Ad Litem and other
22 folks involved in representing kids and just to do this a
23 friendly way. They are kind of like the Guardian Ad Litem
24 element. We heard testimony this morning. We like the
25 fact --

1 MS. LOPEZ: It didn't surprise --

2 MS. DALTON: I like it, too. They like the fact
3 if there's an allegation of or evidence of abuse that a
4 Guardian Ad Litem is appointed in those cases, other cases,
5 the decision is with the Judge.

6 So the whole idea you come into this intake
7 system, we're going to take care of the confidential part of
8 the amendment written before it goes, there's always
9 information a judge may not have had otherwise you get that
10 at the beginning of the case.

11 You can see how complex it is. It can be
12 assigned to the tracking the case. So really complex cases
13 can get the case management that they need and if the kids
14 were at risk, we both know, we heard these cases over and
15 over again, where the Judge sometimes sends the child back
16 to parents that an abusive kid winds up dead. We don't want
17 that to happen anymore.

18 Seems, Chairwoman Cohen, that the best way to
19 prevent that from happening is to make sure that there's a
20 Guardian Ad Litem appointed. I don't know if you want to
21 respond to it?

22 MS. LOPEZ: I don't see how a Guardian Ad Litem
23 would represent the interest of a child better than a parent
24 who is trying to protect that child. I really have problems
25 with that. I mean in most situations, a guardian is not

1 necessary.

2 It shouldn't be an automatic thing, just with an
3 allegation of abuse or neglect. It should be used in a
4 sparing way. The court really needs to be in representation
5 if, for instance, a child is being coerced in preparation
6 for testimony and a parent is, you know, having them go to a
7 psychologist against court order or in defiance, some sort
8 of agreement between the parties that might be a special
9 case where a Guardian Ad Litem might not be appointed as an
10 automatic.

11 I think it's just far reaching. I think it's
12 too much, too far and it really doesn't acknowledge the role
13 that parents play in protecting the rights and interest of
14 children.

15 MS. DALTON: Okay. I also want to say something
16 about the point that you made about the not getting
17 representation that they need. It would be wonderful if we
18 can get a court lawyer appointed for every person the way we
19 do in the criminal courts.

20 That doesn't happen. It also doesn't happen
21 that lawyers give their own time pro se appointments. So
22 the question opposed to the Task Force even though a set of
23 facts are, how do we make sure those who are not represented
24 get the help they need?

25 It's Chairwoman Cohen and the Task Force's

1 opinion having the family justice act where the people
2 cannot afford the mediator and all other court fees
3 associated with family litigations, will be able to have
4 those fees waived.

5 The money will come from the state to reimburse
6 the county. It's also their position if you have a family
7 resource center, you can get a pro se manual specifying what
8 the practice is like in that county so they know what to
9 expect so they also know, okay, what's the form for this
10 motion.

11 They're not going in blind, if you will, is a
12 good thing. There's a place for them to leave their kids
13 while they're litigating, prison supervised they can go ask
14 a question, I got out of this master hearing, if I want to
15 appeal, how do I do that? They're in there. We're going to
16 be dispensing legal advice.

17 The Dauphin County Bar sets up at Strawberry
18 Square every once in awhile and tells folks. If you come
19 here, we'll tell you what you should do.

20 MS. LOPEZ: That's very dangerous. I need to
21 tell you that I ran pro se clinics in Lancaster County. I
22 ran custody pro se clinics, divorce pro se clinics. Before
23 everyone was permitted to file, they had to go through two
24 hour information sessions about what happens when you file;
25 not just a book or a manual explanation and discussion about

1 what the pitfalls and advantages of were going into the
2 judicial system, giving them control over your life.

3 And it was a very, very real experience for many
4 people. I would have 20, 25 people sign up for the class
5 and I might have seven people having heard the inclination
6 decide, it's better to work something out if you want to
7 look at making family laws less adversarial, more on having
8 the system work better for clients, look at the front end.

9 If you're going to provide pro se forms you need
10 to provide legal information and advice prior to filing, not
11 just after you file the information state, it's too late.
12 When you get the manual. I think that's a very big concern
13 to me. The other thing is reality of pro bono
14 representation.

15 Having worked in legal service organizations, I
16 worked hard for local bar associations; very committed to
17 pro bono work, recruiting attorneys. But the experience was
18 over and over again, personally in family law, the huge
19 difficulty of recruiting experienced attorneys to provide
20 representation with low income wasn't available to assume
21 somehow AOC, the AOPC, to work with the county bar
22 associations to recruit and train pro bono attorneys to
23 assume some how putting them in that position to do that
24 work is going to make it easier or better is really not
25 true.

1 And that's not the successful way to go about
2 it. If you're going to have pro se forms available at the
3 court system, then you might want to think about doing more
4 up front advice and information how you do that with private
5 counsel. How you do that without doing conflict checks?

6 You need to do conflict checks. It would be
7 advice, but if that's really all you want to accomplish,
8 people not getting into the system when they don't have
9 that, when you need to do it.

10 MS. DALTON: Okay. Just one more point you
11 mentioned ADA briefly.

12 MS. LOPEZ: I'm regretting it.

13 MS. DALTON: For everyone's information the
14 American Bar Association is fully behind these bills. They
15 were developed in consult with Jeff Recouge, ABA, consultant
16 in family law.

17 He's gone around the country helping other
18 states and other counties set up these kind of programs with
19 the PBA as well.

20 MS. LOPEZ: They're very much in favor of
21 unified family court system and court reform. We're all on
22 the same page with that absolutely.

23 CHAIRWOMAN COHEN: Thank you again. We
24 appreciate you being here. Thank you. Okay. I'm assuming
25 you're Lauren Jacobson?

1 CHAIRWOMAN COHEN: The next and last person to
2 appear before us is Lauren Jacobson. Dr. Lauren Jacobson is
3 the Director of Human Development and Family studies at Penn
4 State Altoona. Any time you're ready.

5 DR. JACOBSON: I talked to Karen a little bit about
6 what to do. I wrote this up. I'm not going to read that if
7 that's okay. I put more information in than --

8 CHAIRWOMAN COHEN: Give us time to ask you
9 questions.

10 DR. JACOBSON: I think I'm mostly going to cover
11 highlights about kids and whole family issues. Sort of the
12 bottom line is parenting itself is stressful and --

13 CHAIRWOMAN COHEN: We know.

14 DR. JACOBSON: The issue that comes in here is that
15 obviously as you add stress on top of the basic things that
16 go along with parenting, that's going to create problems and
17 greater stress in the parent/child relationship.

18 Stress creates bad parenting and I think what we
19 generally find is that as parents get more stressed out, they
20 aren't as effective and they aren't consistent and the
21 quality of the parent/child relationship is diminished.

22 I think mostly what I want to address here is the
23 complexity and stress. Obviously the longer the divorce
24 proceedings take, the more stressful they're going to be on
25 the parents and their children.

1 As soon as you get through that the sooner the
2 children can come to some sort of resolution. The things
3 that I've highlighted already overt conflict in the family,
4 which obviously is problematic for children. If you're
5 going to prolong divorce proceedings, there is a more greater
6 chance to overt conflicts between parents that then can
7 create a feeling of unjust in childrens' sense of insecurity,
8 which is obviously going to make it difficult for children to
9 adjust in a healthy way.

10 And what's going to happen. They need to realize
11 this is ultimately going to happen in the parent/child
12 relationship if there's tension between the parents. That is
13 often going to spill over between -- into the parent/child
14 relationship. I think that's crucial to keep in mind.

15 This is clearly going to create problems not just
16 between the parents, but between the parents and their
17 children at the same time. But the children clearly need
18 their parents to be very available emotionally and
19 psychologically normal.

20 We know that in terms of divorce and parenting have
21 long term effects on kids. Parents who continue to fight
22 throughout the divorce and following the divorce, there's
23 problems for kids in that way. Obviously resolution of that
24 is going to help diminish that. And consistently in
25 parenting is a critical factor.

1 The consistency that parents can provide, too, is
2 going to be useful. The less problems they have to deal
3 with, the better. In terms of effects of stress on parenting
4 skills, we know the best parents are the ones who are
5 consistent.

6 One who recognizes inappropriate behavior and are
7 less distracted from their children, the more likely you're
8 able to recognize this is inappropriate behavior. And
9 effective monitoring, the best parents are the ones who have
10 the time to watch what their kids are doing to see what's
11 going on.

12 As the amount of stress decreases the ability to be
13 a good parent in terms of interaction between stress, the
14 stress of divorce and limited resources, what we typically
15 know is that resources are not required for being -- I mean,
16 all kinds of resources, not just financial resources.

17 They're not required to be a good parent but obviously if you
18 have access to resources, social support, emotional support,
19 financial support, whatever that is, there is less stress
20 that's going to create a better parent/child relationship.

21 As for many parents going through divorce, the
22 number of resources they have is going down significantly.
23 We know that it's an inverted relationship between access to
24 resources and stress. So stress goes up, resources and
25 access to resources comes down. So parenting then because

1 it's stressful by its very nature when you embedded it,
2 stressful context or chaotic context, the end result for
3 parents is they aren't consistent.

4 They have a hard time creating warm, loving
5 relationships with their children all of which are going to
6 be necessary for a high quality parent/child relationship.
7 I've highlighted some of the tasks children need to go
8 through when they're trying to adjust to divorce. I have
9 listed some basic things they need to deal with regardless of
10 age to whether or not.

11 You're talking about infants or toddlers. They
12 need to some how come to the grips with this. Obviously, a
13 rapid resolution of the divorce process itself is going to
14 expedite the ability for the child to recognize the divorce
15 is final. I am not to blame and start to deal with all the
16 feelings going on with the divorce.

17 As you prolong the divorce process it's going to
18 make it more difficult for children to get a grip of what's
19 actually going on, so they're going to have a longer time to
20 think maybe this isn't -- maybe this is not going to happen
21 and the parents maybe in that same position.

22 I have identified some developmental level issues
23 whether you're talking about parent's divorcing with an
24 infant, which usually isn't like most cases when they have a
25 number of children, they have in sixth, seventh and eighth

1 grade, dealing with divorce and on down. Usually around late
2 school age, early adolescent levels, is when most parents are
3 going to come to this resolution. You may have infants
4 dealing with this attachment issue that are problems.
5 Toddlers you have attachment language difficulty that they
6 have to deal with as well as cognitive limitations.

7 In terms of childhood peers that are important.
8 They really aren't a source of social support at this point.
9 So they, the children, are still continuing to look to the
10 parents for their primary emotional and psychological support
11 and the more distracted they are, the less likely they are
12 going to be able to provide that to the adolescents.

13 Obviously monitoring is clearly an important issue.
14 Adolescents, I don't think need their parents to be very
15 available in unique ways that if I'm distracted by divorce
16 that is going to make it difficult for me to make it
17 available to them. The ways they're going to fit their
18 developmental level.

19 The last thing I highlighted is individual
20 differences. It's important to recognize that children are
21 all very different. They are very vulnerable at the same
22 time. They're very resilient. They will adapt to whatever
23 we throw at them, whether or not we want them to adapt.

24 If their parents are unavailable emotionally,
25 they're not -- I don't think that's a good thing for society.

1 They will adapt to the fact their parents are not available
2 but what are they going to replace it with? That's
3 ultimately the key, what ends up filling that gap.

4 So some children will adapt better than others but
5 ultimately the best thing is they can adapt to a parent being
6 available emotionally and psychologically in whatever ways
7 they need to be.

8 I think obviously the things I highlighted I think
9 would be effected by prolonged divorce, other issues going
10 on. There are ones I see specific to that issue.

11 CHAIRWOMAN COHEN: Dr. Jacobson, we want to thank
12 you. I usually start these hearings and in my introduction
13 say that obviously one of our primary goals is to protect our
14 children because we as legislators, our mandate is protecting
15 the citizens who cannot protect themselves and obviously one
16 of the primary goals of this legislation is to be sure our
17 children are cared for in situations where they are
18 particularly vulnerable and where the natural protectors for
19 obvious reasons cannot.

20 So we appreciate your attention and reminding us
21 our duties as legislators.

22 REPRESENTATIVE DERMODY: No questions.

23 CHAIRWOMAN COHEN: Any questions?

24 MS. MENDLOW: I would like to ask since you're here
25 and so knowledgeable with the volume of divorces in our state

1 as unlike other states, given the fact that there is a rather
2 high failure rate with marriages, do you have any pointers
3 here as well regarding what we should be thinking about for
4 the children? What if we're lucky enough to improve divorce
5 proceedings, are you -- do you have some particular programs
6 in mind to help youngsters in post-divorce and in situations
7 that are effecting them perhaps in schools and they're going
8 into adulthood and their life choices?

9 DR. JACOBSON: I don't know of any programs
10 specifically, although, I'm guessing there's some out there.
11 Probably not a lot. I think it's ultimately a matter of
12 parenting. I think problems come in ultimately to the point
13 that husbands and wives, when they separate, are usually
14 always fairly angry at each other and children tend to get
15 drawn into that in some way.

16 I don't think parents do it maliciously. This is a
17 matter of this child is the result of us and we're angry at
18 each other. How do we deal with this relationship of a child
19 included who loves both of us and doesn't understand
20 necessarily what's going on?

21 I mean ultimately, they need to develop programs
22 whether it's in the school or through some, you know,
23 mechanism in school which are good mechanisms, sometimes kids
24 dealing with it whether they can effectively saddle with
25 another program.

1 I don't honestly like that. I think they need to
2 be targeting at the parents. Getting them to recognize how
3 to distance themselves from the divorce when they're
4 interacting with the children. That's -- most of the
5 research is saying they need to be very clear, very
6 articulate with their children about what is going on and
7 what it means for the future because one of the realities is
8 not until adolescence until children can actively think about
9 the consequences of this.

10 It's not until they're 12 or 13 that a child can
11 realize what it is going to be like when dad is not in the
12 house or mom is not in the house. Your eight, nine year olds
13 are going to be very anxious of what is going to happen
14 because they can't really hypothetically think about it.

15 You've got a good ten years of development that the
16 child may not have any sense of what it is going to be like.
17 A parent may not either. They can certainly talk about how
18 to set up life in very consistent ways that the children can
19 deal with that.

20 But right now, I'm not aware of specific programs,
21 which doesn't mean there aren't any. But I'm not familiar
22 with any personally. It would be a good idea. It might be
23 through --

24 CHAIRWOMAN COHEN: Now you've been in the system,
25 here is the program. Now you're divorced, here is the

1 program you need to go to to deal with your children.

2 MS. MENDLOW: Thank you.

3 CHAIRWOMAN COHEN: Obviously the question was
4 geared to what can we do legislatively if anything? It is a
5 difficult area. I'm not sure that legislatively we can even
6 over reach on this. I think Representative Dermody has a
7 question.

8 REPRESENTATIVE DERMODY: I guess it's a brief
9 comment. Through your testimony, Dr. Jacobson, I was happy
10 to hear at least our adolescents in their own way wants us in
11 our house. It's tougher and tougher. I appreciate that.
12 It's good to hear.

13 CHAIRWOMAN COHEN: Dr. Jacobson, thank you very
14 much. We appreciate your input. I must say that we never
15 have time to hear from everyone who is interested in making a
16 presentation. We are always open for letters, telephone
17 calls, any kind of presentation.

18 Today I received some written presentation from
19 David Scott, a father from the Altoona Division, Director of
20 the Greater Pittsburgh Chapter of the National Congress for
21 Fathers and Children.

22 So we want to recognize everyone and anyone who
23 wants to call us or write to us or make presentations. The
24 record is always open. Again, thank you, Dr. Jacobson.
25 Thanks to everyone who testified before us today. I must

1 again thank Bruce Kelly from Senator Jubelier's office and to
2 please thank the Senator for making his appearance today.
3 Certainly, I thank Representative Dermody and Representative
4 Petrarca for being here and my Counsel, Karen Dalton, and
5 Jane Mendlow and Cindy Updyke from Representative Geist's
6 office.

7 Without your input and your assistance we couldn't
8 have done it. We thank you. This hearing is now adjourned.
9 I didn't thank our video and Court Reporter, I'll do it now.

10 (Whereupon, the hearing was concluded at 11:58
11 p.m.)

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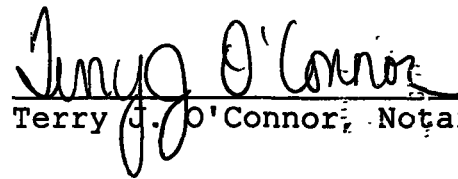
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