

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

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House Bills 418, 463 and 1639

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House Judiciary Committee  
Subcommittee on Family Law

Main Capitol Building  
Majority Caucus Room 140  
Harrisburg, Pennsylvania

Thursday, February 4, 2010 - 9:45 a.m.

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BEFORE:

Honorable Thomas Caltagirone, Majority Chairman  
Honorable Kathy Manderino, Majority Chairman  
Subcommittee on Family Law  
Honorable Deberah Kula  
Honorable Paul Drucker  
Honorable Ron Marsico, Minority Chairman  
Honorable Richard Stevenson, Minority Chairman  
Subcommittee on Family Law  
Honorable Glen Grell

IN ATTENDANCE:

Honorable Matthew Baker  
Honorable Mark Cohen  
Honorable John Evans

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1     ALSO PRESENT:

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      Majority Research Analyst

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   Sharon McKee  
6       Majority Research Specialist

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   Wendell Hannaford  
      Judiciary Committee Secretary

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   Karen Coates  
      Minority Senior Legal Counsel

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   Karen Dalton  
12      Minority Senior Legal Counsel

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1                   CHAIRMAN MANDERINO: Good morning,  
2 everyone. My name is Kathy Manderino. I am  
3 the Chair of the Judiciary Subcommittee on  
4 Family Law, and we welcome you all here to our  
5 subcommittee hearing on child custody.

6                   I am going to ask members to  
7 introduce themselves. But before I do that, I  
8 want to go through a little bit of protocol,  
9 not just for those who are testifying but also  
10 for members of the audience.

11                   I know, for many of you, this may  
12 be your first time attending a House hearing.  
13 And so, I just want to explain to you how we  
14 run our hearings and what it is that you can  
15 expect.

16                   We have a very busy agenda. The  
17 morning goes through specific panels that have  
18 been pre-requested, both folks who asked us to  
19 testify that we could accommodate during that  
20 time and folks that members here wanted to  
21 hear from in an attempt to get all aspects of  
22 the issue, and folks who have different  
23 viewpoints on the issue of child custody in  
24 front of us.

25                   We also have three specific bills

1 that have been referred to our subcommittee on  
2 the issue of child custody. And some folks  
3 will be testifying in general, some folks will  
4 be testifying about the specifics of the bill,  
5 and we left that up to their discretion with  
6 some guidance from the committee.

7 After lunch, we have allotted a  
8 two -- I guess about an hour-and-45-minute  
9 timeframe for individual citizens to testify.

10 That's not a typical venue. It is  
11 not unheard of, but it is not a usual thing to  
12 kind of have an open mike or an open forum for  
13 five minutes. But I know this is an issue  
14 that individual citizens have very passionate  
15 thoughts on, and I did want to give everybody  
16 an opportunity to testify that we could  
17 accommodate.

18 Because of that, both in the  
19 morning and the afternoon, because we have  
20 such a long agenda, I will be keeping very  
21 strictly to the time limits.

22 And that's kind of a warning for  
23 not just the testifiers but also for myself  
24 and the members because we tend to --  
25 sometimes like to get longwinded in our

1 questioning. And it is going to be very  
2 important that we are all concise in our  
3 questions so that we can stay on schedule.

4                   And I also would remind members,  
5 sometimes I know that our tendency is to want  
6 to ask all of the questions of the first  
7 testifier. But I have tried to stagger the  
8 testifying so that you will be getting  
9 different points of view. And so, if you can  
10 ask the questions that are pertinent to that  
11 person's testimony and then wait to hear some  
12 of the other testimony, I think you will get a  
13 good perspective on all the various avenues of  
14 this issue.

15                   With that, let's quickly go through  
16 introductions and then I am going to recognize  
17 Representative Baker.

18                   Dick, do you want to start?

19                   REPRESENTATIVE STEVENSON: Good  
20 morning. My name is Representative Dick  
21 Stevenson. I am co-chair of this committee on  
22 the Republican side. I am glad to be here  
23 today. And thank you, Madam Chairman.

24                   I would also like to thank those  
25 folks who are here to testify today, and we



1 are all anxious to hear what everyone has to  
2 say. Thank you very much.

3 CHAIRMAN CALTAGIRONE: Thank you,  
4 Kathy. I am Tom Caltagirone, Berks County. I  
5 am Chairman of the House Judiciary Committee.

6 REPRESENTATIVE BAKER:  
7 Representative Matt Baker from Bradford and  
8 Tioga counties.

9 MS. DALTON: Karen Dalton, counsel  
10 to the Judiciary Committee.

11 REPRESENTATIVE EVANS: I am  
12 Representative John Evans, 5th Legislative  
13 District in Erie and Crawford counties.

14 REPRESENTATIVE DRUCKER: I am  
15 Representative Paul Drucker. I am from the  
16 157th District, Chester County and part of  
17 Montgomery County.

18 REPRESENTATIVE GRELL: Good  
19 morning. I am Representative Glen Grell from  
20 the 87th Legislative District, which is part  
21 of Cumberland County.

22 REPRESENTATIVE KULA:  
23 Representative Deberah Kula from Fayette  
24 County, with no microphone. I am a member and  
25 Secretary of the House Judiciary Committee.

1 CHAIRMAN MANDERINO: Thank you.

2 And with no further ado, one of the  
3 pieces of legislation before us is prime  
4 sponsored by Representative Matt Baker.

5 And, Representative Baker, I am  
6 going to give you a few minutes just to  
7 explain your bill.

8 REPRESENTATIVE BAKER: Thank you  
9 very much, Chairwoman Manderino, Chairman  
10 Stevenson and Chairman Caltagirone and all the  
11 members. I appreciate the opportunity to  
12 testify this morning.

13 Each year, thousands of  
14 Pennsylvania's families ask family court  
15 judges and court personnel to make the most  
16 important decisions of their lives. Who will  
17 have primary custody of the children, who will  
18 have partial custody and for how long, who  
19 will retain the use of the marital home, how  
20 much child support will be paid - to name just  
21 a few.

22 At the same time that families are  
23 seeking the help of the court, tremendous  
24 emotional and financial pressures are being  
25 exerted on mom, dad and children. The breakup

1 of a family causes the kind of hurt which  
2 cannot be adequately described in words but  
3 can be silently understood.

4           The legislation I am proposing  
5 seeks to address the realities of family  
6 breakup by designing a system for the handling  
7 of matrimonial litigation--those cases  
8 involving divorce, custody, child and spousal  
9 support, and equitable division of marital  
10 property--in a way which puts families first,  
11 that treats each and every family with  
12 courtesy and respect, and which is designed to  
13 dispense justice in a timely and less costly  
14 manner.

15           I am talking about establishing a  
16 system which is founded upon the principle  
17 called therapeutic justice, a term originally  
18 coined by Senior Family Court Judge Michael  
19 Town of Hawaii.

20           In such a system, court events are  
21 coordinated. The courts are user-friendly,  
22 more cost efficient, and time conscious. The  
23 kind of court system which anticipates that  
24 families will have questions regarding the  
25 court's processes and that those families not

1 being able to afford lawyers--and in  
2 Pennsylvania, there are far too many families  
3 who cannot afford lawyers--will need special  
4 assistance in understanding and negotiating  
5 the system.

6 The bill before you today, House  
7 Bill 418, which I prime sponsored, is one part  
8 of a two-bill package designed to put the  
9 family justice system on the side of the  
10 families. The other part, the implementing  
11 legislation, is House Bill 2046. While House  
12 Bill 2046 is not before you today, House Bill  
13 418 really cannot be discussed without also  
14 mentioning House Bill 2046. Together, they  
15 represent my proposal to assist families  
16 undergoing the strain of family breakup.

17 The remainder of my remarks will  
18 address both House Bill 418 and House Bill  
19 2046.

20 CHAIRMAN MANDERINO: Matt, two  
21 minutes.

22 REPRESENTATIVE BAKER: I just got a  
23 two-minute time clock running.

24 CHAIRMAN MANDERINO: I told you I  
25 would be tough on everyone.

1                   REPRESENTATIVE BAKER: Let me go  
2 then to my quick summary.

3                   Again, the legislation reforms the  
4 way matrimonial cases, those cases involving  
5 divorce, custody and support, are handled from  
6 a procedural perspective.

7                   Simply, the legislation does not  
8 change the substantive law regarding these  
9 types of cases but does institute a system of  
10 deciding these cases which are designed to:

11                   Protect the present and long-term  
12 safety of children and victims of domestic  
13 violence;

14                   Eliminate the barriers to  
15 meaningful dispute resolution by enabling  
16 family members to deal with the same court  
17 officers and staff each time the family needs  
18 the court services;

19                   Treat each and every member of the  
20 family with courtesy, civility and respect;

21                   Speedily, efficiently, fairly and  
22 cost-effectively decide cases with the goal of  
23 resolving all aspects of the case within six  
24 months of filing;

25                   Recognize the realities of family

1 breakup, including the emotional trauma  
2 experienced by the parents and their children;

3           Assure adequate access of all of  
4 those who need the court's services, including  
5 those families unable to afford lawyers; and

6           Sufficiently train judges and  
7 masters in the applicable substantive law as  
8 well as subjects need to be -- that need to  
9 make the best decisions for children and  
10 families, such as mental and behavioral  
11 health, mediation, child abuse and neglect and  
12 domestic violence.

13           Specifically, the legislation  
14 establishes a one judge/one family system for  
15 litigating matrimonial cases. And this means  
16 that each time a family needs the court's  
17 help, the same judge and staff members will  
18 help that family. This not only aids the  
19 family but will help it ensure that neither  
20 the family nor the court's time is wasted.

21           Additionally, the legislation  
22 establishes a differentiated case management  
23 system so the cases are managed based upon  
24 complexity. A differentiated case management  
25 system goes hand-in-hand with a one judge/one

1 family system and will enable cases to be  
2 decided without wasting the court's resources  
3 or time.

4 Finally, the legislation  
5 establishes procedures to speed the resolution  
6 of cases by encouraging continuous trials and  
7 by establishing a motion's day in each  
8 judicial district. Help will be provided to  
9 families who cannot afford lawyers to the  
10 establishment of the Family Justice Account.  
11 This fund will help defer the cost of court  
12 ordered events, such as mediation, when a  
13 family is unable to pay such cost due to  
14 poverty or financial hardship.

15 Further, each judicial district  
16 will be required to establish a Family  
17 Resource Center, a central location where  
18 families can gain access to information  
19 regarding the substantive and procedural  
20 aspects of family litigation as well as easy  
21 to understand information regarding protection  
22 from abuse orders, shelters, and other  
23 governmental and community services designed  
24 to protect the victims of domestic violence.  
25 A pro se manual, a how-to manual for

1 litigating family law cases for those families  
2 unable to afford a lawyer will also be  
3 available.

4 And with the encouragement of the  
5 Chair, I will conclude my remarks. Thank you  
6 very much.

7 CHAIRMAN MANDERINO: Good job.  
8 Thank you, Representative Baker.

9 Also before us this morning is  
10 House Bill 463, prime sponsored from  
11 Representative Belfanti. Representative  
12 Belfanti chose not to make opening remarks,  
13 but let me read just a few sentences from our  
14 bills' summaries to put into perspective the  
15 content of that bill.

16 House Bill 463 amends the child  
17 custody laws and amends it by adding a  
18 definition of joint custody which encompasses  
19 both joint legal custody and joint physical  
20 custody.

21 The bill's major focus is to alter  
22 the current discretionary best interests of  
23 the child standard that the court uses in  
24 deciding custody disputes.

25 This bill establishes a new



1 standard for the court to use as a starting  
2 point for all child custody cases.

3 The bill creates a rebuttable  
4 presumption that joint custody is in the best  
5 interests of the child. This is often  
6 commonly referred to as presumptive joint  
7 physical custody.

8 Additionally, the bill includes  
9 several new factors for the court to consider  
10 when determining custody.

11 And finally, also before our  
12 committee for consideration is House Bill 1639  
13 of which I am the prime sponsor.

14 This bill repeals all of the  
15 existing statute -- family law that's in the  
16 Domestic Relations Act and combines it all  
17 into Title 53. So when you are reading that  
18 bill, kind of ignore--for the laymen--ignore  
19 the first 11 pages of the bill, which is just  
20 the repealer which will then repeat all of it,  
21 both in the current law and the changes,  
22 starting on page 11 under -- moving it under  
23 Chapter 53.

24 But under the legislation, there is  
25 the stated policy of the Commonwealth remains

1 the best interests of the child. But it says  
2 that when in the best interest of the child,  
3 both parents share fully in the rights and  
4 responsibilities of raising the child upon  
5 separation or dissolution of the marriage.

6 It also provides that when an  
7 action for custody is filed, the court may not  
8 presume that custody should be awarded to a  
9 particular parent based solely on gender.  
10 Instead, this legislation provides a  
11 comprehensive list of 16 factors that the  
12 court must consider before making a child  
13 custody determination, while keeping the best  
14 interests of the children as the focus.

15 The list includes which party is  
16 more likely to encourage and permit frequent  
17 and continued contact between the child and  
18 the other party; the parental duties already  
19 performed by each party on behalf of the  
20 child; the need for stability and continuity  
21 in the child's education, family life and  
22 community life; and the availability of  
23 extended family; and the child's sibling  
24 relationships.

25 In addition, the bill mandates that

1 the court state its reasons for custody  
2 decision on the record. Presently, there is  
3 no rule requiring that.

4 Finally, for the first time in  
5 Pennsylvania law, this statute would require  
6 -- or would include a framework for judges to  
7 use when making decisions about when one  
8 parent seeks to relocate the child to a new  
9 residence. And the bill also has specific  
10 provisions to protect victims of domestic  
11 violence, both adults and children.

12 And with that, those are the three  
13 bills in front of us.

14 And I am pleased to introduce our  
15 first panel to testify and to welcome here  
16 before the House Judiciary Subcommittee,  
17 Pennsylvania Supreme Court Justice Max Baer  
18 and Sandy Moore the Administrator for the  
19 Office of Children and Families in the Courts.

20 And the Pennsylvania Supreme Court  
21 has been doing a lot of new and innovative and  
22 interesting things with regard to the courts,  
23 family law, children. And I have invited them  
24 here to speak generally about what they have  
25 been doing, where they see us needing to go in

1 the future.

2 And, of course, Justice and Ms.  
3 Moore, you are welcome to comment on any of  
4 the specifics, if you want to, of the  
5 legislation in front of us.

6 And with that, the microphone is  
7 yours.

8 HONORABLE BAER: Thank you.  
9 Representative Manderino, Representative  
10 Stevenson, thank you for inviting us to be  
11 here today.

12 Our two branches of government very  
13 much need to work together collegiately and  
14 for the best interests of the people of  
15 Pennsylvania and that doesn't happen enough.

16 I think just through sort of benign  
17 neglect, we don't think to call each other and  
18 talk enough. And so, it is very, very  
19 important that we are here and we appreciate  
20 it.

21 Let me also say that I speak only  
22 for myself. If you follow our court's  
23 jurisprudence, there is rarely unanimity about  
24 anything, and that as we write. And so, I am  
25 giving you my views. I have not run this by

1 the court. I have not asked the court for  
2 review, so I don't speak on behalf of the  
3 court.

4 And before I talk about custody, I  
5 want to respond very, very briefly to the  
6 thoughtful comments of Representative Baker.

7 Most of what you said are wonderful  
8 ideas, and my comment is to bridge this  
9 seeming inadvertent gap between our branches  
10 of government.

11 I am not sure -- I don't think we  
12 need a constitutional amendment, and I am not  
13 even sure we need a bill. I think if we sat  
14 down and talked about it, a great deal of what  
15 you are suggesting could be done through  
16 procedural rule.

17 And I would not be opposed to that,  
18 personally, because I think a lot of what you  
19 suggested are good ideas and worthy ideas to  
20 flesh out and talk about.

21 So I make that invitation, and it  
22 would be my pleasure to do that. And it would  
23 be my pleasure, on behalf of the judicial  
24 branch, to bring it to the table to talk about  
25 those things.

1 I would say the same thing  
2 regarding that, your statute, which I did read  
3 and it has got good ideas in it. And so, I  
4 wanted to flesh that out because sometimes we  
5 don't have to go to Harrisburg to pass a law  
6 to get things done.

7 Let me talk about custody for a  
8 second. And I have Sandy, who Representative  
9 Manderino was nice enough to introduce,  
10 keeping a clock on me because, like all of  
11 you, I am not good at containing myself at the  
12 microphone.

13 And what I want to do is try to go  
14 beyond the current bills and talk about what a  
15 system that pulls on research and experience  
16 in other states might look like, in about 15  
17 minutes or so, leaving a few minutes for Sandy  
18 to comment, and then leaving lots of time for  
19 questions and dialogue between us, which I  
20 think would be healthy.

21 Obviously, the criteria for custody  
22 now is best interests of the child. And that  
23 criteria is justifiably, in my view,  
24 criticized as being so amorphous as to not be  
25 helpful when these very difficult issues come

1 before the individual judge. And indeed, too  
2 often leave it to the personal instincts,  
3 biases of the individual judge, as best  
4 interests can be anything you want it to be.

5 So the question then becomes, what  
6 do you supplant it with or do you have to  
7 supplant it?

8 That question, I think, though,  
9 needs to be delved into even more. What are  
10 the societal goals that the legislature seeks  
11 to meet and how to best meet them when it  
12 comes to custody?

13 I think that there would be no  
14 controversy from anybody in this room that the  
15 goal is healthy, normal children developing  
16 into healthy normal adults who lead productive  
17 lives and add to society.

18 I think to do that, we need a  
19 child-focused system. I think people pay lip  
20 service to child-focused systems but really  
21 have great difficulty trying to get there.

22 We always hear, and we have already  
23 heard today, about fathers' rights. Fathers  
24 absolutely have rights. They have a  
25 constitutional right to raise their children,

1 explicitly acknowledged by the U.S. Supreme  
2 Court.

3 We hear about moms' rights. They  
4 have the same rights, coequal rights. But I'd  
5 suggest, respectfully, that those rights are  
6 subservient to a child's absolute right to  
7 life, liberty and the pursuit of happiness, to  
8 a child's right to grow into a healthy  
9 teenager, healthy adult. So I think we need  
10 to be child focused, and not mom focused and  
11 not father focused.

12 Now, I am very shortly going to  
13 constructively, I hope, criticize presumptive  
14 joint custody because the experience around  
15 the United States and indeed around the world  
16 is that it doesn't work.

17 But before I do that, I want to be  
18 careful that I don't paint with too broad a  
19 brush.

20 We know that the single most  
21 important factor--we know this from research  
22 and I would be glad to supply that research  
23 for you, I do have it, and I did review it  
24 before coming in here today--the single most  
25 important factor in a child's success in



1 growing into that healthy teenager and adult  
2 is the reduction of parental conflict.

3           Conversely, or said a different  
4 way, when you have high parental conflict,  
5 children are most at risk. When you have low  
6 parental conflict, post separation, post  
7 divorce, children do best.

8           So the real goal, I think, of  
9 legislation and the real goal of the judicial  
10 system to be child focused is to reduce the  
11 high level of conflict between parents.

12 Because those parents without high levels of  
13 conflict don't need us. They don't need a  
14 law. They don't need a court system. They  
15 separate and they raise their kids and their  
16 kids grow up healthy.

17           So we are really legislating and  
18 really adjudicating for the high-conflict or  
19 the moderate-conflict cases, but really the  
20 high-conflict cases.

21           So in terms of child focus, it is  
22 as simple as the old story of Solomon. You  
23 want the child to go with the mother who would  
24 let the child go with the imposter, and not  
25 the mother who would cut the child in half to

1 have their half, and that's what we are  
2 looking for.

3 High-conflict cases then, I think,  
4 have to be the focus, and the reason being  
5 that they put children in just terrible  
6 tension.

7 You know, when they are infants,  
8 some parents will never let them cry, other  
9 parents let them cry themselves to bed. I am  
10 not here to tell you which is best, but I am  
11 telling you that the child should have  
12 consistency.

13 Different bed times, different  
14 rules of opening their refrigerator, homework,  
15 and different levels of parental activity, or  
16 getting homework done, curfews.

17 And I promise you, I have seen all  
18 of these more egregious scenarios. Where mom  
19 and dad have their own doctors and when Doctor  
20 A says the flu for the dad, mom takes the  
21 child to her doctor to confirm or not confirm.  
22 Different dentists.

23 Mom and dad are of different faiths  
24 or even different sub faiths. And when the  
25 child is with the dad, the child goes to the

1 dad's church. When the child is with mom, the  
2 child goes to the mom's church. And if the  
3 child's confused, that's too bad because  
4 that's their constitutional right.

5 This puts kids at risk--and again,  
6 we know this--for everything, for more mental  
7 health disorders, for depression, for  
8 substance abuse. As they get older, for  
9 homelessness, for suicidal tendencies. It  
10 puts them at risk for education failure,  
11 maladjustment, from the inability to form  
12 their own relationships.

13 What it does is, in too short of  
14 time, as those of us who are a little older  
15 now know, has them repeat the sins of their  
16 parents: inability to form relationships,  
17 maintain relationships.

18 So if the difficulty is the  
19 high-conflict cases and the solution is to  
20 dissipate that high level of stress and that  
21 high level of conflict, the question is, how  
22 do you do it?

23 Let me start very briefly because I  
24 know that it is front and center today, and  
25 that many people, good people, will be

1 providing testimony with what I think is not  
2 the answer, respectfully, and that is  
3 presumptive joint custody.

4 If the most important goal is the  
5 reduction of stress, then those who advocate  
6 presumptive joint custody in high-conflict  
7 cases must think it's going to reduce stress  
8 or else they -- and be child focused or they  
9 wouldn't be advocating it.

10 There are many, many advantages to  
11 joint custody. Indeed, the research shows it  
12 is the best relationship for kids, but the  
13 research is always based upon low-conflict  
14 cases. Mom and dad separate. Mom and dad  
15 never come to court, or they come to court  
16 once because they have got to get things  
17 straightened away.

18 They never get the lawyers, open  
19 the statutes and engage in that high-conflict  
20 litigation. They arrange an agreement that  
21 they are going to co-parent their kids. Their  
22 kids have the best success rates. That system  
23 of joint custody works.

24 However, when you get to the  
25 high-conflict cases, it doesn't work. And

1 again, the research shows that it doesn't  
2 work. And in some ways, it is intuitive that  
3 it can't work.

4 But when you go back to the  
5 research, which is always worthwhile, there is  
6 a statistical correlation between  
7 court-ordered joint custody and its failure.  
8 In other words, as I said, parties reach it  
9 themselves, that works, it is a success.  
10 Courts order it, it is unsuccessful. It  
11 causes more divorce litigation. It causes  
12 increased child support litigation. It  
13 obviously causes far more custody litigation.

14 Some couples become codependent  
15 with the courts. And they are in there daily  
16 in motions court, which may come, as you do,  
17 daily, or three times a week. And they are in  
18 there every day.

19 And you have to appreciate--again,  
20 I have sat there, I have probably tried 300  
21 custody cases--what's going on there. My  
22 daughter is 14 and my ex-wife allows her hem  
23 to be too high. It is raining outside and my  
24 husband sent the child -- my ex-husband sent  
25 the child to school in a jacket that was too

1 light.

2 Courts can't do those things. And  
3 the underlying problem is not the hem or not  
4 the jacket, it is the conflict. And so,  
5 that's what we have to do.

6 And really briefly, Oregon went to  
7 presumptive joint custody in 1997. And I am  
8 not going to go through the litany of what the  
9 researchers found. But one commentator, in  
10 the Florida State Law Review of 2007, declared  
11 the law on the basis, everything they saw to  
12 be a failure.

13 Iowa, Tennessee and the State of  
14 Washington have all either adopted presumptive  
15 joint custody or considered it and backed off  
16 in light of the comments that the commentators  
17 and the social scientists have engaged in.  
18 They expressed the doubt of the wisdom in  
19 presumptive joint custody in the cases that  
20 the court sees, which is the high-conflict  
21 case.

22 As I keep saying we want everybody  
23 to go out and do it, but don't ask us to force  
24 it on them.

25 Even Australia tried it. In 2006,

1 they passed it as a national law. And in  
2 2008, the Attorney General of Australia called  
3 it a failure.

4 So it has been proven to not work  
5 all over the United States in those cases  
6 where the parents just cannot be child custody  
7 -- cannot be child centered and reach  
8 cooperation.

9 One other interesting note. In  
10 those places, those states I have mentioned  
11 and in the countries where they tried it, the  
12 research shows, in about a year or so, people  
13 go back, in fact, to the principle of primary  
14 custody, partial custodial relationship  
15 because it just works better for everybody,  
16 and perhaps there is also some glean that the  
17 presumptive joint custody is not working for  
18 the children.

19 So with that, with looking at a  
20 child base of system and noting that a  
21 presumptive joint custody, in my view, has not  
22 been successful, were tried, and therefore I  
23 respectfully do oppose House Bill 463. Let me  
24 just say that for what it's worth. I hope  
25 it's self-evident.

1                   The question is, what do we do?

2       And I didn't want to come here and be  
3       destructive and so I wanted to make some  
4       suggestions.

5                   And what I did was I sort of tried  
6       to do what I always do which is think outside  
7       the box. I think as if I was writing on a  
8       tabula rasa and can put any system I want  
9       together.

10                  And I have some suggestions for  
11       you. First, I don't think we have to abandon  
12       best interests of the child, but I do think we  
13       have to define that term and say what it  
14       means.

15                  And one of the statutes that  
16       Representative Manderino makes an attempt at  
17       that, I think that's a laudable attempt. I  
18       think a lot of those categories are very good,  
19       but let me anchor it more simplistically.

20                  And to try to get a system that is  
21       child focused and encourages contacts with  
22       both parties, both parents, while at the same  
23       time reducing high stress, start with what's  
24       known as the approximation rule.

25                  The term comes from the American



1 Law Institute, which writes many of the  
2 uniform laws that the legislature has adopted  
3 in Pennsylvania and everywhere in the country,  
4 and it is generally a think tank on the law.  
5 And it has the principles for family  
6 dissolution, and it's termed the approximation  
7 rule.

8 All that rule says is the  
9 post-separation arrangements, as far as  
10 possible, should mimic pre-separation  
11 arrangements.

12 Now, there is obvious advantages.  
13 Kids are losing their most fundamental grasp  
14 on what they know. Their mom and their dad  
15 being under the same roof, co-parenting. Then  
16 running into each of their mom and their dad's  
17 arms as they come home.

18 Let the kids stay in the same home.  
19 Don't move them out of that home. Let them  
20 stay with their same friends, in their same  
21 school, in their same church, with their same  
22 doctors and dentists and neighbors.

23 So approximate, at the moment of  
24 separation, what was occurring before  
25 separation. If mom got the kids off to

1 school, let mom get the kids off to school.  
2 If dad picked them up every day after school,  
3 let dad pick them up.

4 It is easy to predict a result  
5 which reduces litigation. It should reduce  
6 conflict and it should work well, and that's a  
7 bias that I would suggest to you as you go  
8 forward to suggest this.

9 The other -- And I am sorry, but  
10 the -- Five more minutes? I have Sandy  
11 keeping a clock on me. I was going to  
12 digress, but I am not going to.

13 All right. Now we have the parents  
14 living apart, but we have them in an  
15 approximate relationship. What do we do next?  
16 What do we do next?

17 All over the United States, we are  
18 using parenting plans. And in Pennsylvania,  
19 we haven't used parenting plans. Again, it  
20 comes from the American Academy of Matrimonial  
21 Lawyers, adopted from those ALI principles,  
22 which I commend to you.

23 Colorado, Minnesota, Washington,  
24 D.C. and Indiana all use parenting plans to  
25 allow parents to participate in the process of

1 arriving at what arrangements should occur for  
2 their kids.

3           The plans differ based upon the age  
4 of the child because we know that very young  
5 children should see the parent, they are not  
6 living with all of the time, for short  
7 duration. Older kids can see the kids -- The  
8 teenagers can see their parent for a long  
9 time, spaced farther apart, because they are  
10 better able to adjust to that.

11           Indiana has a system that I  
12 personally like very, very much. They have  
13 developed parenting time guidelines. And I  
14 have -- They are available on the net. I have  
15 the set here. I would be glad to leave it  
16 with you.

17           They are based upon social science,  
18 child development science. I don't know how  
19 good their science is because I am a lawyer  
20 and not a social scientist, but we can check  
21 that. We have many great universities that  
22 have child development departments.

23           And what they do in Indiana is they  
24 use their parenting time guidelines, which  
25 again use social science, that are age

1 appropriate and scenario appropriate, to  
2 assist parents to adopt a parenting plan so  
3 that the parents are involved.

4 I presume in a high-conflict case,  
5 that they have to litigate the conclusion, but  
6 then the court would use the parenting  
7 guidelines as a base so we would not have  
8 wildly divergent results courtroom to  
9 courtroom premised upon a judge's  
10 well-intentioned but individualized judgment.  
11 I think that's a wonderful idea as we progress  
12 from approximation and go forward.

13 Interestingly, the social science  
14 shows the presumptive joint legal custody does  
15 work and does help and I should be aware of  
16 that. It allows the noncustodial or the  
17 partial custodial parent more psychological  
18 investment. The issues are concrete. They  
19 are limited. Generally, the children are not  
20 caught between them.

21 And if somebody really can't focus  
22 on what's best for a child, a court can change  
23 from joint legal custody to sole legal custody  
24 on a dime, in five minutes, in motions court.  
25 So they can be child centered and they help.

1           The other thing parenting plans  
2     have that I commend to you to look at is they  
3     require in the parenting plan some sort of  
4     dispute resolution system. Hopefully not the  
5     court.

6           Put together a panel of five  
7     relatives--maternal grandmother, paternal  
8     grandmother, maternal aunt, paternal aunt and  
9     whoever--and let them listen to the grievants  
10    and let them vote secretly, three to two, one  
11    way or the other, and then we would at least  
12    have the family, the village raising the child  
13    and not the state raising the child.

14           Minnesota, Arizona, Oregon, all use  
15    parenting plans with various tweaks. And as I  
16    said, I like the Indiana model and I commend  
17    it to you.

18           Now finally, in conclusion--as I  
19    run out of time, and I could do this for about  
20    three hours--the Joint State Government  
21    Commission put together a very, very  
22    thoughtful and excellent proposal. They  
23    mimicked the Connecticut model which is a--and  
24    it is used by more than Connecticut--which is  
25    a services model.

1 I like that model also. It is an  
2 amalgam with everything else we are talking  
3 about.

4 Now, we have used services in  
5 Pennsylvania for years. Almost every county  
6 has educational programs, mandatory  
7 educational programs, for people going into  
8 custody. That's a service. A lot of counties  
9 have mandatory mediation. Although some don't  
10 have mediation, they just call it mediation,  
11 but that's a service.

12 And very recent, that one of the  
13 great new services that is hot out there--and  
14 Superior Courts addressed it twice and we  
15 haven't addressed it--is parent coordination.  
16 And that's a third party to make some of the  
17 minor decisions to keep people out of the  
18 court.

19 I think that's not as good a model  
20 as a parenting plan with a dispute resolution  
21 system that let's the family do it. It is a  
22 better model than having the court do it.

23 There is all sorts of other  
24 services that are available: anger management  
25 classes; relationship classes. If you have

1 had a drug problem or you have a mental health  
2 problem, those services are obvious.

3 The services are sitting in every  
4 one of our counties. They are in Child  
5 Welfare, and they are in Juvenile Justice to a  
6 lesser extent.

7 A high-conflict custody case puts a  
8 child at the same risk, in my view, as a  
9 dependency case or even a Juvenile Justice  
10 case. And so, those services can be borrowed,  
11 for as short a time as possible, using the  
12 particular service most necessary to get the  
13 parents over the hump of high conflict.

14 And instead of using the court  
15 system which exasperates it, use the model to  
16 reduce it. And the hope is that pretty soon,  
17 six months from now, eight months from now,  
18 they will be able to start parenting. And  
19 when you get that good cycle going, it  
20 perpetuates itself. So that's what we want.

21 In addition to Connecticut which is  
22 famous, Arizona which is a progressive  
23 jurisdiction, Florida, are all using a model  
24 of the services provision, and I think that  
25 that again is an important component to trying

1 to reduce stress.

2 So in conclusion, very quickly, we  
3 think best interests can work, but we think it  
4 needs to be more accurate to specific  
5 criteria.

6 We think presumptive joint custody  
7 is not the right answer. It has been shown  
8 not to be the right answer everywhere that it  
9 has been tried.

10 We think the approximation rule is  
11 a wonderful rule to help the child get through  
12 the trauma of that initial separation.

13 Then we think we should energize  
14 parents. Use parenting time guidelines and  
15 get parenting plans and let parents figure out  
16 how to raise their kids and not have the state  
17 raise their kids. Use services that are  
18 available in every county in Pennsylvania  
19 already, as necessary and appropriate, for as  
20 short a time as possible, using the laser to  
21 get to the right service so that the child --  
22 the parents don't become codependent on it but  
23 we ease them through.

24 Now, I want to make a comment on,  
25 very quickly, on a few separate issues.



1 Modification of litigated custody orders.

2 Before 1988 in Pennsylvania, you had to show  
3 substantial change of circumstances to get  
4 back in court.

5 My court--obviously before I was on  
6 it or I would have been in descent--my court,  
7 in a case where parties sought to go from  
8 partial to shared custody, pulled the language  
9 from the parent and child -- the parent -- the  
10 Grandparent Visitation Act, and said, well,  
11 you can do that at any time. You don't need  
12 substantial services.

13 And that language remains verbatim  
14 in Act 1649. And I am sure the drafters were  
15 not aware of the case law history, that that  
16 was there. Then my court -- And there was a  
17 strong descent by Chief Justice Nix.

18 Then my court compounded the error  
19 in a case Jendill (phonetic) versus Myers,  
20 1989. It was a per curiam order. It was a  
21 one-sentence order affirming the lower court.  
22 But there was a footnote to the order citing  
23 Carus (phonetic), which was the shared custody  
24 case, saying that we see nothing in the  
25 legislation that says that there must be

1 substantial change of circumstances. So any  
2 party can seek modification of any order, even  
3 the one that was decided yesterday, at any  
4 time.

5 I think that should have a  
6 legislative response. I think we should go  
7 back to substantial change of circumstances  
8 because I don't think the courtroom is a good  
9 place for the kids and for the parents.

10 The other thing I wanted to  
11 mention, final topic, I think, is relocation.  
12 And one of these statutes deals with  
13 relocation. I commend that statute.

14 What it says is, give notes. But I  
15 wanted, again, to share with you that around  
16 the United States, you have pro-relocation  
17 states. Mom, you can get up and go with the  
18 kids. You have anti-relocation states. Kids  
19 are young for a very short time, stay here so  
20 both parents can be involved with the  
21 children.

22 And then you have states like  
23 Pennsylvania. And ironically this, again,  
24 came from a case, Gruber versus Gruber, that  
25 the Superior Court decided. It adopted Donna

1 Frio (phonetic) in New Jersey at about the  
2 same time the New Jersey Supreme Court was  
3 overruling Donna Frio as not working very  
4 well. But we have had it for almost 20 years  
5 in Pennsylvania, and that is sort of a  
6 neutral, let the judge decide.

7           Again, I must tell you--I speak  
8 only personally and from my own experience--I  
9 am anti-relocationist and the father groups  
10 would probably like that.

11           I am an anti-relocationist. I  
12 think kids are young and when they get to be  
13 12 or 13, they want to be with their friends.  
14 They want to play football with summer  
15 practice, or band or cheerleading with summer  
16 practice. I think you got married or you had  
17 children together and you should stay together  
18 for the very short time that kids grow up.

19           And I recognize that if you are in  
20 high conflict, we are keeping you together,  
21 but I want to solve high conflict by  
22 constructive means and not by having somebody  
23 move to L.A. and somebody stay in Pittsburgh.  
24 So I am not in favor of relocation.

25           Finally, finally, in one of the

1 bills--and I was going to talk about the bills  
2 and sort of got lost and didn't--there is a  
3 suggestion of contempt for custody. I  
4 absolutely agree with that, and I think you  
5 should say that explicitly.

6 I think -- Again, I don't mean to  
7 make this about the fathers' groups or  
8 mothers' groups, but fathers' groups have a  
9 legitimate gripe. They don't pay their child  
10 support and we throw them in jail. They go to  
11 pick up their child and the door is locked and  
12 we don't do anything.

13 We should treat the right to see  
14 your child, when it is met by the other  
15 parent's obstructions, just as seriously as  
16 the right to pay child support, and we should  
17 use law enforcement. And I promise you, if we  
18 put mom in jail for an hour or three hours, a  
19 couple of times, we will get rid of the  
20 problems. The problems are exasperated  
21 because there is no enforcement activity when  
22 it comes to custody.

23 I want Sandy to say something, and  
24 we want to take questions.

25 And again, as I said earlier, it's

1 my -- I know I went through an awful lot of  
2 materials of what a custody system, if I was  
3 writing on a blank slate, might look like. I  
4 am available to any of you by telephone, by  
5 e-mail, at any time. I'll come back to  
6 Harrisburg for any time, any public session or  
7 in private session. And I am willing to do  
8 anything to try to enhance your obligations.

9           And finally, these are all of your  
10 calls. We don't make public policy, we follow  
11 it. So try to give me the best advice you  
12 can, whatever you come up with is okay. But  
13 it may not be okay with us, but we will follow  
14 it and we will enforce it.

15           MS. MOORE: Good morning. Thank  
16 you again for allowing us the opportunity to  
17 come speak with you.

18           I just have a couple of  
19 observations. I know the Chairwoman talked  
20 about my position at the Administrative Office  
21 of Pennsylvania Courts. I am the  
22 Administrator of the Office of Children and  
23 Families in the Courts which was established  
24 just a few years ago.

25           And my focus has been exclusively

1 helping abused and neglected children, and  
2 working with dependency courts and child  
3 welfare agencies across the Commonwealth.

4 But looking and working in child  
5 welfare, I have some observations about what  
6 is obviously happening in custody. Because as  
7 Justice Baer alluded to, when you get into the  
8 high-conflict custody cases, often some of the  
9 same dynamics you see in the Child Welfare  
10 arena.

11 So I think the first observation  
12 that I wanted to share was that I think every  
13 one of us in this room has either heard, will  
14 hear or has lived through, either as a child  
15 or as a parent, individual scenarios of heart  
16 -- of situations where perhaps justice may not  
17 have occurred in the manner in which that  
18 person would have liked it to occur.

19 Partly, I think that comes down to  
20 human factor. We have individuals stating  
21 their case and other individuals making  
22 decisions about those cases and the statements  
23 that are made. But I think, just as we do in  
24 Child Welfare, policies shouldn't be driven by  
25 individual scenarios or individual cases.

1                   Certainly, those help inform us as  
2                   to what we might want to look at, but they  
3                   should not be the foundation for policy.

4                   I think the foundation for policy  
5                   in child welfare and in custody is looking at  
6                   the science, looking at what is working to  
7                   help children, to help families across the  
8                   nation and internationally, and then applying  
9                   those practices.

10                  And that's really what we have done  
11                  in dependency courts. We scoured the country,  
12                  we scoured the international evidence that  
13                  showed what seemed to work best for children  
14                  who were abused and neglected and we brought  
15                  those practices to Pennsylvania.

16                  But we brought them to Pennsylvania  
17                  in a very unique way. We gathered a  
18                  combination of practices that really blended  
19                  the science, the evidence across national and  
20                  international with the human element of  
21                  parents' knowledge for what's best for their  
22                  children.

23                  And we blended those two things and  
24                  came up with the scenario that is quite  
25                  literally working and changing dependency

1 across Pennsylvania. And quite honestly, it  
2 is the only place in the country that has done  
3 that combination. I am not going to go into  
4 what that is.

5           But we are proposing a similar sort  
6 of combination for custody where you take the  
7 best information that science can give us, the  
8 best information that professional experts can  
9 give on particular cases, but then you give  
10 that information to the family and help the  
11 family come up with the solution that works  
12 best for their children and their unique  
13 circumstance. And then you augment that with  
14 additional services, if the family needs those  
15 services.

16           So there is a whole triage  
17 mechanism to what we are suggesting, too. So  
18 it is looking at the approximation and  
19 starting with the approximation; looking at  
20 the utilization of parenting guidelines;  
21 creation of parenting plans; individually  
22 tailoring services to the child and the  
23 family's needs when they need them for as  
24 intense a period as they need them and as  
25 short a period as they need them.



1                   And doing that combination, there  
2                   are pockets of each of those happening  
3                   throughout the country. There is no place  
4                   that I am aware of that is doing the  
5                   combination of those.

6                   And I think Pennsylvania has a real  
7                   opportunity to completely change the face of  
8                   our custody and what happens to children, what  
9                   happens to families, by doing this combination  
10                  of family experts and professional experts  
11                  coming together and presenting to the court  
12                  their very best, combined thinking of what  
13                  would happen -- what would be best for that  
14                  individual child.

15                  So rather -- And I think we can  
16                  probably do this. As the legislation  
17                  currently stands, I am not certain that we  
18                  would need a lot of changes in legislation. I  
19                  will let justice speak to that.

20                  But I also think that because the  
21                  combination hasn't occurred anyplace else in  
22                  the country, it is worthy of an experiment.  
23                  It is worthy of attempting to do this in one  
24                  or two or three judicial districts and take a  
25                  look at, does it really work?

1                   So before we pass massive change  
2 across Pennsylvania to change the system, we  
3 experiment that with things that already are  
4 working, in and of themselves, across the  
5 country. And then we come back and we take a  
6 look at, did it really do what we were hoping  
7 it would do? And that's help children. And  
8 by helping children, that means helping their  
9 families.

10                   I will stop there.

11                   HONORABLE BAER: Just a quick  
12 caveat. Sandy's office is fully funded by the  
13 federal government through the Permanency  
14 Planning Initiatives, and she cannot be  
15 engaged in doing custody through her office.  
16 So it would take a relatively modest  
17 appropriation from you, probably less than a  
18 hundred thousand dollars, to hire one  
19 full-time staff person, if we are going to do  
20 this in two or three counties, to collaborate  
21 with a university to study it, and to do the  
22 education, to implement it.

23                   And we are not asking for that  
24 today, we'll get the budget.

25                   CHAIRMAN MANDERINO: Thank you very

1 much for your testimony. We do have about,  
2 oh, actually almost 10 minutes, if there are  
3 some questions for the panel.

4 Representative Baker.

5 REPRESENTATIVE BAKER: Thank you,  
6 Madam Chair.

7 I am very, very encouraged by your  
8 comments and how proactive you have been. You  
9 have been a great leader in this area.

10 I know the judiciary has taken  
11 judicial notice about your great work and  
12 experience and expertise in this arena, and it  
13 is worth noting today, publicly, in  
14 appreciation for your passion.

15 I am very, very encouraged, and  
16 hearken to hear it, that maybe we don't need  
17 this legislation, we don't need a  
18 constitutional amendment, we don't need either  
19 one of my bills.

20 And I am very encouraged and  
21 hopeful that we can continue the dialogue and  
22 engage in how perhaps this could lead to a  
23 change in the rules of civil procedure. And a  
24 lot of this might be implemented down the  
25 road, once you feel the level of comfort that

1 it works.

2 And I just want to say, I  
3 appreciate your support for being here, for  
4 caring. And let us know when you would like  
5 us to come to Pittsburgh to work out the  
6 details.

7 HONORABLE BAER: Let me comment  
8 real briefly that the idea of therapeutic  
9 justice, also known, not quite the same but  
10 very similar, Unified Family Court. One of  
11 their problems is statutory and the fact that  
12 the parties drive the litigation.

13 So they come in to establish child  
14 support. And you say to them, wait a second.  
15 You're here. Let's do child custody and let's  
16 get going on an equitable. And they or their  
17 lawyers say, no. You know, we have not filed  
18 a praecipe for a conciliation on that. We are  
19 not prepared to talk about it.

20 Then the next week, mom comes to  
21 get the child and there is a problem. And  
22 they fly into motions court and it's custody.  
23 And then three weeks later, there is a  
24 discovery dispute regarding equitable.

25 So there are challenges to Unified

1 Family Court. It is a great idea and concept.  
2 I have not turned my attention to thinking  
3 that one through, but I certainly can.

4 REPRESENTATIVE BAKER: Okay.

5 CHAIRMAN MANDERINO: Thank you.

6 Representative Kula.

7 REPRESENTATIVE KULA: I usually can  
8 talk loud enough without a microphone, but.

9 Justice Baer, I truly appreciate  
10 your testimony here today.

11 I can tell you, as someone that has  
12 witnessed custody hearings in different  
13 capacities throughout my lifetime, I remember  
14 a time when custody was granted in open court,  
15 with the child being handed over at that time,  
16 with the -- whoever the person that did not  
17 get custody, the screams from that person and  
18 from the child. So we have come a long way,  
19 in Pennsylvania, as far as custody matters.

20 And I believe you have been  
21 instrumental in many of the changes in your  
22 own practice and now as a Supreme Court  
23 Justice. But I truly appreciate the work you  
24 have done. I appreciate the comments you have  
25 instituted today.

1 I believe we talked earlier that --  
2 I think a lot of times, we do not talk enough  
3 with the people that when we make laws, the  
4 people that have to deal with those laws. And  
5 your first statement that we need to  
6 communicate more, I think is an excellent idea  
7 so that legislation is done correctly and can  
8 work the way we want it to work.

9 And I think without your insight in  
10 these matters or all of the courts' insight  
11 that sometimes we are lacking in what we --  
12 our intentions are, in particular,  
13 legislation.

14 I am encouraged by your comments  
15 and by the legislation that is here today.

16 I am not a fan of, as you  
17 indicated, the presumptive joint custody. And  
18 not only maybe in joint custody, but there is  
19 not two cases that are ever alike, whether  
20 it's custody, whether it's criminal, whether  
21 it's civil. They can all have the same name,  
22 but the circumstances surrounding those  
23 particular cases are probably all different.  
24 So I think the courts truly try to do the best  
25 job possible.

1                   And I got the wink. I got you,  
2                   Kathy.

3                   I believe the courts try to do the  
4                   best job possible, to listen to all sides and  
5                   to enter a decision that's in the best  
6                   interests of who they are trying to protect at  
7                   that time, and hopefully in all cases it is  
8                   the child.

9                   I thank you for your testimony.

10                  HONORABLE BAER: Thank you.

11                  CHAIRMAN MANDERINO: Karen Dalton.  
12                  Attorney Dalton.

13                  MS. DALTON: Mr. Justice Baer and  
14                  Ms. Moore, thank you very much for coming  
15                  today.

16                  I just have a couple of questions.  
17                  The first has to do with parenting  
18                  coordinators. There are some counties, like  
19                  Dauphin, that have adopted that practice. And  
20                  you mentioned earlier that you thought that  
21                  possibly there were some problems with that,  
22                  but that you could work with it under the  
23                  dispute resolution.

24                  Mr. Justice, could you expand upon  
25                  your views about parenting coordinators,

1 please?

2 HONORABLE BAER: I think there is  
3 some legal problems and I think there is some  
4 pragmatic problems.

5 The idea of the parenting  
6 coordinator, as I understand it--and I try to  
7 follow the literature--is that in cases where  
8 the conflict is so high that it jeopardizes  
9 the child, mom and dad are at impasse on  
10 virtually everything, as I talked about, and  
11 the parenting coordinator is put out there to  
12 be the third vote to break that impasse.

13 Now, legally, the problem is that  
14 you have not authorized a nonlawyer or even a  
15 lawyer to make the kind of decisions that,  
16 generally speaking, the judiciary should make  
17 with due process and the like.

18 And there is a fuzzy line there  
19 because to the extent that the decision is de  
20 minimis, then that may be okay. To the extent  
21 it's a large decision impacting the child,  
22 that's a legal custody decision and that  
23 probably should not be made by parent  
24 coordinators.

25 Additionally, even to the extent



1 that they make small decisions is a matter of  
2 carefulness. There probably should be some  
3 opportunity to review, before a court, at some  
4 point. But the difficulty is that then that  
5 de minimizes the laudatory goal of a quick  
6 expeditious fix to the nonsense impasse.

7 So that's the tension, and I think  
8 the legislature can speak to that from a  
9 pragmatic viewpoint -- or I am sorry, from a  
10 legal viewpoint.

11 From a pragmatic viewpoint, very  
12 quickly--and there is the gray area--it's that  
13 we don't want parents to be codependent on  
14 courts. Parent coordination has arisen from  
15 the parents appearing in motions court three  
16 times a week, every week. They are -- You  
17 know, they and the judge are best friends or  
18 enemies, depending upon how the decisions go.

19 But every decision comes before the  
20 court. The court can't raise kids. The state  
21 can't raise kids. So we don't want the parent  
22 coordinator to become a substitute for that so  
23 that there is a codependent relationship. And  
24 I reference the codependency between a court  
25 and their family. It would be very easy for

1 there to be codependency between a parent  
2 coordinator and family and that's not good for  
3 kids.

4 And, you know, I think this is  
5 really important so one more second on it.

6 Couples, husbands and wives with  
7 children, they have serious impasses regarding  
8 their child, whether it's one of the rules we  
9 have talked about or where they should go to  
10 college, the state school or the private  
11 school. They sit down at the kitchen table  
12 and they work it out. It might take two or  
13 three days and somebody might not talk to  
14 somebody else for a few hours, but they have  
15 to work it out.

16 The problem in these scenarios is  
17 they don't have to work it out. Why not?  
18 Because there is a third party that will make  
19 the decision. I think that's bad. And I  
20 think one of your goals should be to say to  
21 them, yes, you do have to work it out because  
22 you are still parents even if you're not  
23 married.

24 MS. DALTON: Thank you, Mr.  
25 Justice. Just one more question and that has

1 do with what you were talking about before  
2 with respect to the approximation rule.

3           The elements that you are proposing  
4 with respect to family court, specifically  
5 custody, do you see any need for a legislative  
6 change or can that all be implemented through  
7 court rule under the existing language of the  
8 Domestic Relations Code?

9           HONORABLE BAER: I am honestly not  
10 sure because I didn't have the time to go back  
11 and read the statute and try to juxtapose the  
12 statute to the proposal.

13           I did intentionally, in trying to  
14 formulate my thoughts, keep best interests as  
15 a laudatory goal, which is of course the prime  
16 directive of the statute.

17           I don't know that the -- upon study  
18 that there would be any need, absolute need  
19 for legislative change as opposed to  
20 implementation by procedural rule.

21           Having said that, it's always good  
22 to have legislation because that's the will of  
23 the people who vote through their legislature.

24           MS. DALTON: Thank you, Madam  
25 Chairman.

1 Thank you, Mr. Justice.

2 CHAIRMAN MANDERINO: Thank you very  
3 much. That concludes the questions.

4 Justice Baer and Miss Moore, thank  
5 you so much for your testimony. We appreciate  
6 it. And we are delighted that you were able  
7 to come.

8 HONORABLE BAER: Thank you for  
9 having us.

10 MS. MOORE: Thank you.

11 CHAIRMAN MANDERINO: While I am  
12 calling up the next panel, which is a panel  
13 from PA Families and Children's Equality,  
14 Larry Shapiro, William Gibbons and Arthur  
15 Lewandowski, if you gentlemen want to make  
16 your way to the table.

17 I also just want to announce to  
18 folks that we have had a number of people  
19 submit written testimony to us because they  
20 either couldn't -- or couldn't testify or  
21 couldn't be accommodated to testify. All of  
22 that is part of the record.

23 Members of our subcommittee as well  
24 as all the members of the Judiciary Committee  
25 will get a full packet of the testimony, and

1 we do have a transcript of today's testimony  
2 with questions and answers being made.

3 Gentlemen, welcome very much. For  
4 this panel, we have allotted a half hour.  
5 That includes the questions.

6 So I am happy to let you introduce  
7 yourself, altogether. And then you can decide  
8 what your order is. But please keep in mind,  
9 I don't exactly know how you have allocated  
10 your time so I don't know when to give you the  
11 high sign, except that if we get to the point  
12 where we can't get to questions. I would hate  
13 to be there just because we used up all of our  
14 time.

15 So go ahead.

16 MR. SHAPIRO: Okay. Thank you,  
17 committee members. My name is Larry Shapiro.

18 Unfortunately, one of our members,  
19 Art Lewandowski, could not make it today. So  
20 in his place, we have brought Robin Gilchrist,  
21 if that is okay with the committee.

22 PA Families and Children's Equality  
23 is a self-help support group.

24 CHAIRMAN MANDERINO: I am sorry,  
25 just for the point of the stenographer, you

1 are Mr. Shapiro, correct?

2 MR. SHAPIRO: Correct.

3 CHAIRMAN MANDERINO: Okay. In the  
4 center is?

5 MR. SHAPIRO: Robin Gilchrist.

6 CHAIRMAN MANDERINO: Mr. Gilcrest,  
7 G-I-L-C-R-E-S-T?

8 MR. GILCHRIST: G-I-L-C-H-R-I-S-T.

9 CHAIRMAN MANDERINO: Very good.  
10 And then, Mr. Gibbons, you are on  
11 the end here?

12 MR. GIBBONS: Correct.

13 CHAIRMAN MANDERINO: Okay. Thank  
14 you.

15 MR. SHAPIRO: As I was saying, PA  
16 Families and Children's Equality is a  
17 self-help support group for noncustodial  
18 parents. We strongly believe that every child  
19 has the right to have two parents in their  
20 lives for as long as possible, and we actually  
21 see no reason why that's not possible.

22 To start our testimony, we will  
23 have Mr. Gilchrist. He will be reading Mr.  
24 Lewandowski's testimony. Thank you.

25 MR. GILCHRIST: Thank you very

1 much.

2 CHAIRMAN MANDERINO: And you know  
3 what? I don't mean to make new people  
4 nervous. I didn't look at how long the  
5 testimony is. But please keep in mind,  
6 sometimes that it is better to summarize, if  
7 necessary. Thank you.

8 MR. GILCHRIST: I will try and be  
9 brief.

10 Madam Chairwoman, honorable  
11 representatives, on behalf of myself and my  
12 daughter, I thank you all for taking the time  
13 to be here today.

14 I would also like to thank the  
15 National Organization of Social Workers, the  
16 Coalition Against Domestic Violence, the  
17 Pennsylvania Association of Families and  
18 Children's Equality, and Fathers 4 Justice,  
19 and all parents, mothers, fathers, and  
20 children that are here today to give their  
21 testimony.

22 It is my hope that together we can  
23 affect changes in the family court system in  
24 Pennsylvania and become a successful model for  
25 other states in the union to follow for the

1 benefit of our children.

2 My name is Robin Gilchrist. I am a  
3 registered nurse, licensed in the State of  
4 Pennsylvania since 1994. My specialty is  
5 pediatrics, neonatal intensive care, with over  
6 15 years' experience in all aspects of  
7 pediatric medicine, labor and delivery,  
8 postpartum care, community childbirth  
9 education, and emergency nursing, just to say  
10 a few.

11 I currently hold certifications in  
12 neonatal advanced life support. I am an  
13 instructor in pediatric advanced life support.  
14 I am also an advanced cardio life support,  
15 trauma certified and BLS certified.

16 Prior to nursing, I was a volunteer  
17 firefighter and also in the ambulance service  
18 since the age of 18. I have never, in my  
19 life, been arrested, accused or tried of any  
20 crime. I have never abused alcohol, nor  
21 drugs.

22 The reasons why I tell you this  
23 today are twofold. Number one is, despite my  
24 professional accomplishments, the biggest  
25 accomplishments I have made in my life is that



1 of being a father and my daughter. Second,  
2 the reason why I am telling you this, is that  
3 is exactly what I had to provide, as proof,  
4 over one-and-a-half years of fighting for  
5 equal custody of my daughter.

6 The financial and emotional burden  
7 incurred by both of us during this time will  
8 be etched in our psyches for years to come.  
9 My own attorney is even advising me that it  
10 would be long, costly, and probably result in  
11 the same way I started, for every other  
12 weekend, like it was the culture of custody.

13 The financial burden alone was  
14 enough to pay for two years of college at Penn  
15 State. Why I say Penn State, because that's  
16 my alma mater.

17 The current and past practices of  
18 family law combined with increasing divorce  
19 rates have resulted in one of our nation's  
20 biggest social problems: fatherlessness.

21 Fatherlessness contributes to many  
22 more social problems, such as:

23 Seventy percent of crime;  
24 Eighty-five percent of drug  
25 addiction;

1 High school dropouts, 71 percent.  
2 1.2 million nationally. High school dropouts,  
3 71 percent of them are from fatherless homes;  
4 Teen pregnancy, 417,465 live teen  
5 births, with an average of 233 abortions for  
6 every 1,000 births. 39.7 percent of all  
7 births in the United States were out of  
8 wedlock.

9 Excuse me, I am getting a little  
10 emotional.

11 Physical and emotional abuse,  
12 774,000 reported in 2008;

13 Youth suicide, 4,599 in 2004. 63  
14 percent of those were identified as being from  
15 fatherless homes;

16 An increased incidence of violence  
17 that has been 668,000 ER visits in 2007;

18 And 85 percent of the children who  
19 exhibited behavioral disorders in youth have  
20 been from fatherless homes.

21 There is momentum for change in  
22 family law across the nation to create a  
23 presumption of joint fiscal custody. This  
24 action coming in the wake of a natural  
25 evolution of gender roles and parenting --

1 gender roles and responsibilities and  
2 parenting in today's society.

3           Historically, there has been a  
4 judicial bias in the courtroom regarding  
5 custody issues. To date, 87 percent of  
6 custody cases, nationwide, result in the  
7 mother being awarded primary custody of  
8 children. This turning a once loving and  
9 attentive father into an every other weekend  
10 visitor simply based on a legal system is  
11 archaic and personal perceptions of gender  
12 roles in parenting via the Tender Years  
13 Doctrine.

14           Having already been decided by the  
15 United States Supreme Court, this practice of  
16 favoring one person over another based on  
17 gender is the essence of discrimination.  
18 Psychological and health care experts around  
19 the globe profess the everlasting benefits for  
20 our children to have both parents active in  
21 every aspect of their lives.

22           Societal and economic shifts have  
23 expanded the roles that fathers play in their  
24 families. Father involvement is associated  
25 with positive cognitive development and socio

1 behavioral child outcomes. This coming from a  
2 study done by the American Academy of  
3 Pediatrics in 2006.

4 Presumptive joint custody law  
5 would, at the outside of a couple's separation  
6 or divorce, give each parent equal custody of  
7 their children provided that the children  
8 would not be put at risk.

9 It outlines cases such as physical  
10 abuse, drug abuse, criminal history and sexual  
11 abuse as examples why it would not be granted.

12 It would require parents to submit  
13 a parenting plan and give the judge the  
14 authority to order counseling for them, but it  
15 would still leave the door open for appeals by  
16 both parents and changes in decision by the  
17 judge.

18 What does this do? It ensures that  
19 a child would not be kept away from another  
20 parent during separation or divorce while the  
21 slow wheel of family law turns, some cases  
22 taking years to settle.

23 The proposed amendment also  
24 outlines clear penalties for contempt for  
25 parents who violate these orders which are

1 similar to the already existing penalties  
2 outlined in Title 23 which are not enforced.

3 Presumptive joint custody is a  
4 change from the current statute. It requires  
5 that custody decisions be made on a  
6 case-by-case basis by judges who are to rule  
7 in the best interest of the child after  
8 hearing testimony from both parents.

9 The problem with the current  
10 statute, Title 23, is that it is a vehicle to  
11 rule based on outdated personal and social  
12 attitudes of gender roles in parenting.

13 In the past, men were providers of  
14 housing and financial security and the women  
15 tended to the physical and emotional needs of  
16 the children. Today, with most parents taking  
17 equally integrated responsibilities and roles  
18 in parenting, the outdated definition of the  
19 nuclear family, as written in 1955, is, for  
20 the most part, obsolete.

21 This statute has only facilitated  
22 damage to children when one parent is ripped  
23 from their lives, causing needless suffering  
24 to all children and the parents who have been  
25 alienated from their lives. This is a result

1 of the legal system's inability to evolve  
2 along with the current practices of society.

3           Gender mainstreaming in family law  
4 is long overdue. Children with two loving and  
5 attentive parents are more likely to  
6 experience academic success, less likely to  
7 become involved with drugs, crime, and are  
8 less likely to suffer abuse at the hands of an  
9 unsupervised parent and their paramours.

10           Countless government funded studies  
11 prove that children who have two loving and  
12 involved parents are less likely to become a  
13 burden to society. These studies point to the  
14 \$150 billion a year that can be saved in  
15 future government spending that is currently  
16 used to subsidize one-parent households.

17           This dollar amount saved would be  
18 expected to increase over time, as the now  
19 adults who were once children affected by the  
20 system complete the life cycle.

21           Healthier children have been shown  
22 to be better educated, have higher earning  
23 capacities which in turn translates to more  
24 tax revenue for government. They are less  
25 likely to display such behaviors and lifestyle

1 choices that ultimately result in them  
2 becoming a burden to the taxpayer and  
3 contributing to our society's demise.

4 The proposed laws are supported by  
5 parents, nationally, who feel that the current  
6 system is unfair and bias, in favor of the  
7 mother having total custody, making fathers a  
8 visitor by giving him usually four to eight  
9 days a month visitation to be with their  
10 children, even if they weren't the initiator  
11 or cause of divorce or separation.

12 Current statistics show that  
13 two-thirds of all divorce proceedings are  
14 initiated by the mothers, which leaves  
15 staggering numbers of children fatherless; 1.2  
16 million more each year, 24 million currently.

17 They criticize family law  
18 professionals, claiming attorneys want to  
19 maintain the status quo because it lines their  
20 pockets with legal fees.

21 Family law has become a billion  
22 dollar industry, pitting one parent against  
23 the other in an adversarial relationship,  
24 whereas one is the winner and the other is a  
25 loser, resulting in the child, who is the

1 prize in this contest, is robbed of a  
2 meaningful relationship with his or her  
3 father.

4                   Ultimately, in the dissolution of  
5 the parental relationship, everyone suffers,  
6 everyone, but no one more than the child.

7 Excuse me.

8                   CHAIRMAN MANDERINO: While you are  
9 collecting yourself, Mr. Gilchrist, you have  
10 used 10 minutes of the panel.

11                   MR. GILCHRIST: Yes.

12                   CHAIRMAN MANDERINO: So again, not  
13 knowing how you guys have allocated it, please  
14 keep that in mind.

15                   MR. GILCHRIST: Okay.

16                   Joint custody gives fathers an  
17 equal chance to be parents and not visitors.  
18 It does so expediently without risk to  
19 children. It gives fathers the constitutional  
20 right of due process while protecting the  
21 children's best interest at the same time. It  
22 keeps children at the center of both parents'  
23 lives where they belong.

24                   They are not to be used as pawns or  
25 tools to inflict pain from one parent onto



1 another in separation or divorce. Parental  
2 alienation is a fairly new term given to an  
3 old problem, and it's a real problem that is  
4 eroding our youth and the future of this  
5 nation.

6           Although I respect the work the  
7 committee on changing the culture of custody  
8 has done, I feel it needs to be said that  
9 changing words like custody time and parenting  
10 time is not enough. A child doesn't  
11 understand these words. He only understands  
12 that daddy is there every other weekend and  
13 mommy has 22 to 26 days out of the month to  
14 tell him why.

15           I have had many questions over  
16 these bills and over these terms. And I have  
17 even questioned myself, is it the best  
18 interest of my daughter? But when my daughter  
19 steps in my door and says, Daddy, I'm home,  
20 and gives me a hug and a kiss, the answer is  
21 clear. Equal custody is in the best interest  
22 of children.

23           My daughter's name is Caroline,  
24 Caroline Gilchrist. She is going to turn  
25 three next month.

1 Thank you very much for your time.

2 Also, at the committee's request, I  
3 will be able to produce a petition with over  
4 3,200 signatures supporting this bill, House  
5 Bill 463, and the like of 1639.

6 Thank you very much.

7 CHAIRMAN MANDERINO: Go ahead.

8 MR. SHAPIRO: Okay. Good morning,  
9 everyone.

10 My name is Larry Shapiro. First  
11 and foremost, I am here as a father. Today, I  
12 am also here to represent Families and  
13 Children's Equality.

14 I would like to tell you now how  
15 passing a joint custody bill will save the  
16 state hundreds of millions of dollars annually  
17 and to offer some changes to the current  
18 proposed bills.

19 I would first like to address the  
20 changes that PA FACE would like to see  
21 included in the bills that are currently in  
22 front of the subcommittee.

23 PA FACE believes that the current  
24 proposed bills are a step in the right  
25 direction of doing what is in the best

1 interests of our children. Here are a few  
2 points of the bills which we feel could use  
3 some modification.

4 Relocation. This section must put  
5 the burden of proof on the parent desiring to  
6 relocate as it does in 1639.

7 Protection from abuse orders.  
8 These are all too often used as a tool just to  
9 obtain custody. When a person agrees to a  
10 protection order without admitting guilt or an  
11 order is dismissed, that order should not be  
12 allowed to be entered as evidence in a custody  
13 hearing as is now the norm.

14 One of the best provisions of House  
15 Bill 1639 is that it finally awards some  
16 rights to grandparents and allows our children  
17 to have one of that most precious of assets,  
18 their grandparents.

19 Also included in both bills 463 and  
20 1639 are requirements for a parenting plan,  
21 whose purpose would be to set an agenda not  
22 only on how the children ought to be raised  
23 but to also include ways to settle disputes  
24 without costly court battles.

25 As Justice Baer noted, this is an

1 excellent way to settle problems.

2                   When one of these historic bills or  
3 a combination of them is finally passed, it  
4 will allow the children of divorce and/or  
5 separation in Pennsylvania to have equal  
6 access to both parents.

7                   This is a concept that the majority  
8 of the states of this great nation now  
9 recognize as being in the best interest of  
10 their states. Why is Pennsylvania lagging  
11 behind this? This is an investment in our  
12 future, the future of our children.

13                   Even President Obama stated in his  
14 Father's Day address that this country needs  
15 more involvement by fathers in the lives of  
16 our children, yet Pennsylvania refuses to  
17 accept this idea by not making joint custody  
18 the law of the land.

19                   I am sure we can all agree that  
20 children of divorce and separation are hurt  
21 emotionally by not having equal access to both  
22 parents. Many times they are even forced to  
23 take sides in a custody battle. I am not here  
24 today to address this.

25                   What I am here today to address is

1 the financial damage that is being done to our  
2 state and national economy because we are not  
3 granting our children equal access to both  
4 parents.

5 Sixty-five percent of all youth  
6 suicides are from fatherless homes. According  
7 to Pennsylvania Youth Suicide Prevention, teen  
8 suicides cost our national economy almost  
9 \$3 million a year.

10 Seventy-one percent of all high  
11 school dropouts come from fatherless homes.

12 According to the data from a  
13 Business 2 Business article dated October  
14 2007, high school dropouts which number  
15 700,000 a year, nationwide, cost our economy  
16 \$45 billion in lost taxes and increased  
17 government expenses; for example, Welfare,  
18 health care, and other government programs for  
19 undereducated people.

20 High school dropouts will earn  
21 \$1 million less in their lifetime. In  
22 Pennsylvania alone, 10 percent of all 16 to 21  
23 year olds are either not in school or  
24 gainfully employed. In the 2001-2002  
25 Pennsylvania freshman high school class, 22

1 percent of those students fail to graduate  
2 high school four years later.

3           Seventy-five percent of all  
4 adolescents in drug rehabilitation clinics  
5 come from fatherless homes.

6           Eighty-five percent of all  
7 convicted felons grew up without a father.

8           Pennsylvania's prison population in  
9 2006 was 45,000, up 20 percent from a scant  
10 six years prior.

11           In 2007, according to an article in  
12 the Philadelphia Inquirer, that prison  
13 population will be almost 51,000 prisoners; to  
14 keep a prisoner in a state prison costs  
15 \$40,000 a year; to keep a prisoner in a county  
16 prison costs \$18,000; a prisoner over 65 can  
17 cost well up to \$100,000 a year.

18           In that same Philadelphia Inquirer  
19 article that I quoted, our state has just  
20 borrowed \$800 million to build more prisons.

21           We don't need more prisons, we need  
22 more parents involved in their child's lives.  
23 We simply cannot afford to keep our children  
24 from being raised by both parents equally.

25           Even when taking into account the

1 \$25 million a year that Pennsylvania receives  
2 via Title IV-D money, we are still way, way in  
3 deficit of what these children, if they had  
4 both parents, could be bringing into our  
5 economy.

6 This is a win-win situation for the  
7 state and the entire national economy. Give  
8 our children back both parents.

9 Thank you very much, and I will now  
10 introduce Mr. Bill Gibbons.

11 CHAIRMAN MANDERINO: Thank you.

12 MR. GIBBONS: Good morning,  
13 everyone.

14 And my name is Bill Gibbons, and I  
15 am a concerned and involved parent. I want to  
16 thank Representative Manderino and the  
17 committee for the invitation for our  
18 organization to speak today on the House Bills  
19 463, 1639 and 418.

20 I am so passionate about  
21 presumptive equal custody that, last July, I  
22 pedaled my bike 310 miles from Philadelphia to  
23 Harrisburg to D.C. in five days, with Bill  
24 Koellner, to promote equal parenting rights in  
25 the State of Pennsylvania and the nation as a

1 whole.

2 This event is patterned after a  
3 similar event by concerned parents in Lansing,  
4 Michigan. They have pedaled their bike to  
5 D.C. every year since 2006, pedaling to an  
6 event in Washington, D.C. now affectionately  
7 known as Parent Stock.

8 This will be an annual event to  
9 promote equal parenting between family and  
10 children. And the details are on the website,  
11 [freedombiketrek4families.com](http://freedombiketrek4families.com).

12 The story I present to you today,  
13 real quickly, is mine. I am a victim of  
14 domestic violence. I am a survivor.

15 It's important for my sons--Brady  
16 who is now age five and Charlie age four--for  
17 me to be their role model. I have earned  
18 three college degrees, nine industry related  
19 certifications in my 18 years in the  
20 information technology field.

21 I would like to think myself as  
22 well-educated father. I take my education  
23 very seriously as it relates to my work and  
24 livelihood, and that is something I want to  
25 pass along to both of my children.



1 I want to be a part of their lives,  
2 to encourage them, to mentor them, and to pass  
3 along my values, and simply be known, above  
4 and beyond anything else, as daddy.

5 During my marriage, I endured,  
6 during a period of time, physical abuse that  
7 included kicking, pulling my hair out of my  
8 scalp, teeth knocked loose, nose bloodied.  
9 Personal effects trashed, eyeglasses broken.  
10 And one day, while driving, punching me in the  
11 face, having my ex throw my gearshift into  
12 neutral, while along Route 422, with our first  
13 son in the back seat.

14 On my birthday in 2005, I woke up  
15 to find my now ex-wife standing by my bed with  
16 a knife close to my chest and she is telling  
17 me, I hate you so much, I can kill you.

18 My friends and family witnessed the  
19 verbal abuse which was humiliating, degrading  
20 and embarrassing. I had to give up my one dog  
21 to my mother for safekeeping, as my wife tried  
22 to have him euthanized. Only for a vet to  
23 intervene, telling her, he wouldn't do it  
24 because he is only a puppy.

25 My wife alienated my friends, my

1 mother and my employer. I went from a valued  
2 employee of 16 years in American Heritage  
3 Credit Union, with many commendations and  
4 awards, to probation with intent to dismiss.

5           Despite the physical differences  
6 between us, I controlled my anger and never  
7 retaliated. I never filed for a PFA against  
8 her for the same reason that battered women  
9 often do not, because I still loved my wife.  
10 I still believed that if we were able to work  
11 through our differences, this marriage could  
12 somewhat be saved. I made a commitment to her  
13 in front of God and I had planned to keep it.

14           I am here so you can meet me. I am  
15 a male survivor of domestic violence. And  
16 despite societal views, domestic violence is  
17 not limited to one gender, it victimizes both  
18 genders.

19           There is data from two clinical  
20 studies that I have included in my summary.  
21 It is in the appendix. I am not going to go  
22 into it. Other than the fact that in one  
23 study in 1987, a study done up in Canada  
24 changed the culture and climate of that  
25 country because it unfortunately--and with

1 intent--neglected male abuse that was  
2 submitted, and it wasn't corrected until 1999.  
3 This changed the culture and climate of the  
4 whole entire country in how men were viewed in  
5 cases of separation and divorce.

6 I know some of you are still  
7 concerned about the effects of domestic  
8 violence when an order of joint physical  
9 custody is issued and that is why I am here  
10 today. I want to assure you that we still all  
11 address these same concerns and that is why I  
12 am happy to see that House Bill 1639 addresses  
13 the most important of these issues.

14 If you will read Section 5323,  
15 award of custody subsection (e), Safety  
16 Conditions, you will see that this bill orders  
17 the court to make sure that the safety of any  
18 abused party--man, woman or child--is included  
19 in the custody order by said court.

20 This issue is also addressed in  
21 Section 5328, section (a), subsection (2),  
22 factor to be concerned when awarding custody.  
23 Again it is stated that the safety of any  
24 abused party--man, woman or child--must be  
25 safeguarded in any award of custody. Most

1     importantly, this is listed as the second  
2     determining factor when custody is determined.

3             Also importantly, we have found  
4     that there are 28 specific offenses in Section  
5     5329, section (a) that are to be considered  
6     before an award of custody if in fact 50-50  
7     joint physical custody cannot be achieved.

8             I would like a bill such as 1639  
9     passed for families and children's equality so  
10    children are no longer deprived of a close  
11    relationship from a loving, caring parent. It  
12    will help end the exploitation of children  
13    often used as pawns in case of separation and  
14    divorce. It eliminates the power one parent  
15    may hold over another.

16            This legislation must be passed not  
17    only for me, but for my children and all the  
18    children of divorce in this Commonwealth who  
19    have no voice in case of a divorce. If we do  
20    not do this now, how does any parent answer  
21    the inevitable question from a child, where  
22    were you when I needed you?

23            In closing, let me quote President  
24    Obama's speech from his Nobel Peace Prize  
25    acceptance speech. In today's wars, many more

1 civilians are killed than soldiers, the seeds  
2 of future conflict are sewn, economies are  
3 wrecked, civil societies torn asunder,  
4 refugees amassed, and children scarred.

5 A custody dispute is often referred  
6 to as a custody battle. The only difference  
7 between a custody battle and one between  
8 nations is the absence of a winner in a  
9 custody battle. No one wins in a custody  
10 battle.

11 It's time to stop scarring our  
12 children, to give them equal access to both  
13 parents, and House Bill 1639 goes a long way  
14 to achieve this.

15 Once again, my name is Bill  
16 Gibbons. And again, I thank the members of  
17 the subcommittee for the opportunity to  
18 testify this morning. Thank you.

19 CHAIRMAN MANDERINO: Thank you very  
20 much to our panelists.

21 Representative Stevenson has a  
22 question.

23 REPRESENTATIVE STEVENSON: I would  
24 like to add my word of thanks to you for being  
25 here today and for your testimony.

1 MR. GIBBONS: Thank you.

2 REPRESENTATIVE STEVENSON: I invite  
3 any of you, or all of you, to comment briefly  
4 on the testimony we heard earlier from Justice  
5 Baer in his thoughts about how we might  
6 proceed in Pennsylvania. Could you move the  
7 microphone closer to you, please?

8 MR. GILCHRIST: Sure.

9 The points about increase in  
10 penalties, such as the minimal jail time, to  
11 actually have it enforced when custody has  
12 been withheld. Even though it's court  
13 ordered, when a parent has been found in  
14 contempt, to actually being enforced; rather  
15 than a slap on the wrist saying don't do it  
16 again, only to reappear months later with the  
17 same issue.

18 I have heard stories. I get  
19 countless -- Since I have been supporting  
20 these bills, I have gotten countless e-mails,  
21 phone calls, every day, from men and women  
22 telling me of their story of going through the  
23 court system.

24 And when there is something to win,  
25 people keep fighting. When there is nothing

1 to win and there is nothing left to gain,  
2 people settle down.

3 During my custody battle, I was  
4 accused twice of domestic violence. That not  
5 only exacted a financial toll on me, but also  
6 damaged my career. Both times, the charges  
7 were thrown out. None lasted -- No trial  
8 lasted over four minutes.

9 But, at the same time, when my  
10 daughter's mother had perjured herself in  
11 court, there was no follow-up with penalizing  
12 her for her testimony, her false testimony.

13 CHAIRMAN MANDERINO: I am going to  
14 invoke the prod of the Chair. So you think  
15 the contempt provisions are a good idea?

16 MR. GIBBONS: Absolutely, yes.

17 MR. GILCHRIST: I think the  
18 contempt provisions were a good idea when they  
19 were in Title 23.

20 CHAIRMAN MANDERINO: Okay. We have  
21 two more minutes left, so if anybody else  
22 wanted to add --

23 MR. GILCHRIST: They just need to  
24 be enforced.

25 CHAIRMAN MANDERINO: -- to

1 Representative Stevenson. I don't want to not  
2 give you that pleasant chance.

3 MR. SHAPIRO: The only thing that I  
4 would have to say about Justice Baer's  
5 testimony would be his refusal to accept the  
6 presumption of joint custody. It works in  
7 approximately 33 states. That is the majority  
8 of the states in this nation. Obviously, it  
9 works.

10 CHAIRMAN MANDERINO: Okay. And,  
11 Mr. Gibbons, if you want a last word?

12 MR. GIBBONS: I want to comment on  
13 Larry's statement, real quick, in regards to  
14 presumptive joint physical custody.

15 When I met with State Senator Chuck  
16 McIlhinney last Friday and pointed out when  
17 you put two parents in a position, the same  
18 starting point of 50-50, you take the power  
19 and control that one parent can manipulate  
20 over another parent.

21 If a parent is going to be awarded  
22 75 percent of the time, the other parent is  
23 awarded 25 percent of the time, you are  
24 creating future problems down the road of the  
25 parental alienation and manipulation. Oh, I



1 am not here to, you know, drop off the kids  
2 for you. Too bad. And that goes along with,  
3 you know, enforcing the contempt when one or  
4 the other parent goes out of line.

5 If you bring that to a starting  
6 point, you make the parents work together,  
7 which is just what Max Baer wanted from the  
8 start. Bring it to a starting point, make  
9 both parents equal from the start.

10 CHAIRMAN MANDERINO: Thank you.  
11 Thank you all for your testimony.

12 I would just remind the gentleman  
13 with the camera, please, I ask you to stay  
14 stationary. I would appreciate that.

15 Thank you so much for coming.

16 MR. GILCHRIST: Okay. Thank you.

17 CHAIRMAN MANDERINO: We are out of  
18 time, and I want to move on to the next panel.

19 While I am calling the next panel  
20 up, that is, members from the PA Bar  
21 Association Family Law Section, Jeffrey M.  
22 Williams, Mary Cushing Doherty, and Ned Hark.  
23 Please come up to the panel.

24 And I would just ask our  
25 stenographer, you do have a copy of

1 Representative Baker's testimony. And I cut  
2 him off, too. So he asked if the portion that  
3 he skipped from his remarks be entered into  
4 your record, and all of the written testimony  
5 will be of record. But if you would put that  
6 in there, if appropriate, we would appreciate  
7 it.

8 Welcome, panelists. And again, I  
9 am -- We are only five minutes behind. I am  
10 trying not to get us any further behind. So I  
11 will be watching the time.

12 I ask you to introduce yourselves.  
13 And remind you, as well, that there is a half  
14 hour for your whole panel. I don't know  
15 exactly how you have allocated your time  
16 amongst you. So I will let you guys decide  
17 and just try to nudge if I feel like we are  
18 getting behind. Please don't think I am being  
19 rude.

20 Do you want to start with the  
21 introductions so the stenographer knows each  
22 person?

23 MR. WILLIAMS: I am Jeffrey  
24 Williams, to my immediate left is Mary Cushing  
25 Doherty, and on the other end is Ned Hark.

1 I am the current Chair of the  
2 Pennsylvania Bar Association Family Law  
3 Section. I think when I last looked, we were  
4 the second largest section of the PBA. We  
5 have about -- slightly in excess of 1400  
6 members.

7 CHAIRMAN MANDERINO: Excuse me,  
8 please.

9 Gentleman with the camera, please  
10 go behind the panelists. Thank you very much.

11 MR. VONDERHEIDE: Excuse me?

12 CHAIRMAN MANDERINO: Please go  
13 behind the panelists. I asked you not to rove  
14 with the camera. Please go behind the  
15 panelists. And if you do not, I will ask the  
16 House security to remove you.

17 MR. VONDERHEIDE: That's fine. I  
18 will note that there are other cameras here.

19 CHAIRMAN MANDERINO: Please go  
20 behind the presenters and stay at your podium.  
21 Thank you very much.

22 Mr. Williams, you are in order.

23 MR. WILLIAMS: Thank you.

24 In addition, I digress and tell you  
25 that I am, among other things, a Max Baer fan.

1 I know that each of the  
2 representatives here has a lot on their plate,  
3 it seems, whether we go from the budget crisis  
4 to preparing for the next budget. But if  
5 there is going to be progress made on the  
6 family law end of things, it's while Justice  
7 Baer is Justice Baer.

8 For example, on Representative  
9 Baker's excellent ideas that he has, when Max  
10 Baer says he will work with you, he will work  
11 with you. And it's -- If it's time to make  
12 some hay, well, we have a good quarterback.

13 Thank you, Representative Manderino  
14 and Representative Stevenson and the other  
15 members of the subcommittee, for having us  
16 here today.

17 I intend to offer some general  
18 comments on legislation before this panel, and  
19 particularly 1639. And then Miss Doherty and  
20 Mr. Hark will address specific changes,  
21 perhaps, be considered as to the bill. And  
22 Mr. Hark will address the question of the  
23 presumption of equal physical custody.

24 The testimony that I am presenting  
25 has been approved by the Pennsylvania Bar

1 Association. In its entirety, the Board of  
2 Governors has unanimously approved this  
3 testimony.

4 I am before you to speak strongly  
5 in favor of 1639. If simplistically viewed, I  
6 think initially it does three things that I am  
7 calling the three C's. It cleans up prior  
8 legislation, well thought-out legislation,  
9 legislation that has been carefully crafted by  
10 this body and by the Senate and signed by the  
11 Governor.

12 Nevertheless, when it's implemented  
13 and tested by fire in the trial courts, there  
14 are sometimes some things that come to light  
15 that despite the best planning were not  
16 anticipated and there have to be changes and  
17 this bill does just that.

18 For example, the term visitation is  
19 used one way in some sections of legislation  
20 in this Commonwealth and used a different way.  
21 Visitation in one section is defined as what  
22 we would actually call supervised visitation.  
23 The term visitation is eliminated under 1639,  
24 except in its purest form, which is supervised  
25 visitation. That is just one of the examples

1 of things that are cleaned up by this bill.

2 Clarification. Again, with the  
3 passage of time and in litigation, there are  
4 times when even the best thought-out  
5 legislation which becomes implemented, which  
6 becomes the rule of law - things that were not  
7 anticipated or some idiosyncrasies with the  
8 implementation during the trial process,  
9 during hearings.

10 For example, there is some question  
11 right now as when there is third party custody  
12 litigation. The most common example of that  
13 being grandparent's visitation litigation.  
14 There is a question of what the burden of  
15 proof is in a case.

16 There is somewhat inconsistent  
17 stare decisis, meaning prior case law. Again,  
18 that is clarified by this bill. It's just one  
19 of the examples of clarification that I picked  
20 out.

21 The third seed, codification. If  
22 you have a young trial lawyer, and a lot of  
23 people come out of law school, who are six  
24 days out - gees, they call you. Family law,  
25 there is an easy place to start. And they

1 hang their shingle up to very experienced  
2 attorneys. And what they have to do to prove  
3 a case to a judge, in custody, is they have to  
4 go through about 50 years of case law to  
5 determine what factors are relevant to present  
6 to the judge.

7           Parenthetically, at least in Bucks  
8 County where I practice primarily, the view of  
9 the President Judge always seems to be, gees,  
10 these judges are new. Let's stick them in  
11 family court. What harm can they do there?  
12 And that's a point that we will negotiate or  
13 talk about or discuss fully at another time.

14           But you have sometimes  
15 well-intentioned yet inexperienced jurists on  
16 the case. What this does is, if this  
17 legislation codifies 16 factors, it is a  
18 roadmap to the judge, to say, here is 16  
19 factors, Your Honor, that you ought to  
20 consider. It is a roadmap to father's  
21 counsel. It is a roadmap to mother's counsel.  
22 It is a roadmap to the judges, and it's a  
23 wonderful thing, simply stated.

24           In addition to those  
25 clarifications, there are four other important

1 aspects to the bill, I think. One of which is  
2 relocation. Relocating --

3           And I guess in addition to being  
4 the head of the Family Law Section and a Max  
5 Baer fan, I am a divorced father. And the  
6 only thing that terrified me is my wife  
7 thinking about returning to the state of  
8 Tennessee. Nothing wrong with the state of  
9 Tennessee, other than the fact it's many hours  
10 away from where I practice law.

11           Relocation is probably the most  
12 terrifying thing one can consider when you go  
13 through a divorce and custody. You can always  
14 make a little more money and pay child  
15 support, what's another five percent of the  
16 marital estate, but your daughter being raised  
17 six states away is a terrifying thing.

18           The relocation provisions of this  
19 statute provide for notice. Notice is a very  
20 important thing. Justice Baer commented on  
21 whether Gruber is an appropriate standard.  
22 That also is a discussion for another day.

23           But some notice, to try and bring  
24 some order to whether or not there will be a  
25 relocation, is essential in this Commonwealth.



1 And, candidly, that, in and of itself, would  
2 be enough for me to strongly urge positive  
3 consideration of the bill before you.

4 Another important provision is--and  
5 it might seem like a minor thing except when  
6 you are in the trenches like the three of us  
7 are, it's not--if parents separate, they  
8 cannot file with custody court to begin to  
9 resolve their custody differences because of  
10 the fact that if you're not under a separate  
11 roof, you can't file. And particularly, that  
12 rule is strictly enforced in Bucks County.

13 So the problem is now you have a  
14 period of at least four months, custody  
15 conference and then trial, where there can be  
16 a free for all. Hopefully, there is not, if  
17 the parents are sane and relatively well  
18 (phonetic). But there can be a period of  
19 month after month after month after month with  
20 no court intervention.

21 That process can start earlier  
22 under this legislation because of the fact  
23 that a custody bill can be filed -- I am  
24 sorry, a custody complaint can be filed before  
25 the parents physically separate. The process

1 can be begun.

2 Third--and it would seem like  
3 common sense to most in this room but it  
4 doesn't occur this way in practice--many  
5 judges don't do anything other than place the  
6 pronouncement of custody on the record.

7 Issuing an opinion, or a two-sentence order,  
8 or at the end of custody cases in my home  
9 county, it is done right on the record, with  
10 everyone standing there or sitting there, or  
11 if they are initially standing they fall back  
12 into their seat.

13 Judges make an award of custody,  
14 one of the most important pieces of  
15 legislation -- or litigation that occurs for  
16 these people, and they can leave the bench  
17 then with no pronouncement as to what they did  
18 or why. I mean as what they did, yes, but as  
19 to why, they didn't. That is unfair to the  
20 litigants. It's unfair to the attorneys who  
21 have to explain to the litigants what has  
22 transpired. And that is another very positive  
23 requirement of the legislation before you.

24 And finally, the use of parenting  
25 plans. The use of parenting plans, in and of

1     itself, will force people to think about what  
2     they want in custody resolution before they  
3     get to the courtroom and may well lead to the  
4     resolution of many custody cases. Not all  
5     custody cases, certainly.

6                     But in addition, it will allow the  
7     judge, with specificity, to include certain  
8     things in her order or his order. And if you  
9     have a clear order, the clearer an order, the  
10    less likelihood of disagreement between mother  
11    and father as that order is implemented and  
12    lived under.

13                    And again, we have proposed some  
14    changes that come out of years of practice and  
15    the experience of the members of our section,  
16    but overall, particularly 1639, we strongly  
17    urge this body to consider passing.

18                    Thank you.

19                    CHAIRMAN MANDERINO: 10 minutes,  
20    all right.

21                    Ms. Doherty.

22                    MS. DOHERTY: Good morning. My  
23    name is Mary Cushing Doherty, and I am sure I  
24    look too young to tell you this, but I  
25    testified almost 12 years ago on another

1 family law bill when I was Chair of the Family  
2 Law Section in 1999.

3 I did serve on the Joint State  
4 Government Commission since its inception in  
5 1994, and my passions continue in terms of  
6 making our laws the best.

7 And I want you to know that the  
8 Family Law Section of the Pennsylvania Bar  
9 Association, we represent all the diversity of  
10 ideas. We look at everything like it's a  
11 crystal because everything is a little  
12 different from the experience of the clients  
13 we have. And we continue to be a resource.  
14 And we welcome this opportunity to give  
15 comments.

16 And, guess what? I am the kind of  
17 lawyer who is a little bit of a stickler for  
18 details, so they gave me the detailed but  
19 polite comments on the bill, things that maybe  
20 could be a little bit better.

21 So please, do not be -- As we look  
22 at it and I listen to Jeff and I'm thinking,  
23 oh, there is something else we could do a  
24 little better, but let me share with you the  
25 things that we have discussed with the Family

1 Law Section counsel and the Pennsylvania Bar  
2 Association, and we have also received the  
3 approval of the Pennsylvania Chapter of the  
4 American Academy of Matrimonial Lawyers.

5 As you look at the bill, the bill  
6 gives real opportunity. I am going to go  
7 first to the supplemental submission which is  
8 the comments of the Children's Rights  
9 Committee.

10 It highlights two things. One is  
11 this legislation talks about children and the  
12 circumstances under which you need a guardian  
13 ad litem and there are circumstances where you  
14 may want to have counsel for the child.

15 My most recent case, to try to get  
16 a guardian ad litem or counsel for the child,  
17 can be very difficult. But I had a case where  
18 the girls were now 10, 14 and 16 and had been  
19 in litigation since they were four, eight and  
20 10. And by the time children are 10, 14 and  
21 16, they say, who is listening to me? And we  
22 begged the court for a child advocate, without  
23 success.

24 I am hoping this legislation will  
25 inspire the courts to consider that more

1 often. But when they do, we ask you to amend  
2 the guardian ad litem provisions. And you  
3 will see the details in my submission.

4 The guardian ad litem is not  
5 supposed to be someone who testifies, nor is  
6 the guardian ad litem automatically an expert.  
7 So there is a correction in the bill that we  
8 recommend--and you will see we red lined it  
9 and everything--so that the guardian ad litem  
10 is not elevated to expert or fact witness.

11 The guardian ad litem argues from  
12 the facts that are presented by the fact  
13 witness. But you can understand, they cannot  
14 have two hats. They cannot themselves be an  
15 advocate and also be a fact witness. So we  
16 just ask that that be corrected. And that, we  
17 thank the Children's Rights Committee because  
18 they brought that to the attention of the  
19 Family Law Section and we welcome that  
20 amendment.

21 In addition, in the policy  
22 statement, we were a little concerned because  
23 we do wrap the best interest of the child  
24 around everything. So the policy statement,  
25 as originally presented, is in two sentences

1 and the issue of the best interest is  
2 separated from continuing context. We think  
3 that they should be one sentence and that is  
4 how we have recommended that you revise the  
5 policy statement.

6 In the grandparents' award, as Jeff  
7 pointed out, the issue of grandparents and  
8 their interest is one that is often litigated.  
9 The beauty of this legislation is that there  
10 is no such thing as a visiting parent. It's  
11 gone. There is no visitation for a parent.

12 A parent is a partial custodian.  
13 They are a partial custodian either partially,  
14 primarily, or under supervision. So by taking  
15 out that label of the visiting parent, we then  
16 looked at the grandparents' award.

17 A grandparents' award is  
18 derivative, generally. The grandparent comes  
19 to the front -- to the fore because the  
20 parents are already separated or divorced, the  
21 grandparents have an interest. But the  
22 statute contemplates a grandparent could have  
23 supervised, partial custody, and we suggest  
24 that that really is not appropriate.

25 If there is so much tension that

1 the court is contemplating supervising the  
2 time, we do not recommend that that be  
3 statutorily provided. That's a suggestion.

4 Reasons for the award, our third  
5 suggestion. It's on page 15. As Jeff said,  
6 it's really important. It is really important  
7 for people to know why.

8 I just -- I got two decisions on  
9 Christmas Eve. I don't usually work Christmas  
10 Eve. Who wants to be there Christmas Eve?

11 I had two custody decisions on  
12 Christmas Eve. And I am calling up parents,  
13 and said, this is what the judge said and I  
14 give them the result. And the client said,  
15 why? And I didn't have it, I didn't have it.

16 Now, in one of those cases, the  
17 father is going to get why, the mother is  
18 going to get why because one of them took an  
19 appeal. And because they took an appeal, the  
20 judge will issue an order and the judge will  
21 tell them why.

22 But this legislation requires the  
23 why. Some judges can do it by being organized  
24 and at the conclusion of the trial say, this  
25 is what I am going to do and this is why. And



1 in the alternate, they will issue a written  
2 decision.

3           You have a written decision in your  
4 legislation, but we like our language a little  
5 better. Because our language says, The Court  
6 shall state or delineate the reasons for its  
7 decision either on the record, in open court,  
8 or put in writing either in an Opinion or in  
9 the Order itself.

10           So you have it, but I ask you to  
11 look at our language and see if it is a little  
12 bit more clear and expansive. We think it is.

13           Parenting plans. See, I get to  
14 touch back on these. I am so excited at the  
15 prospect of parenting plans. Maybe what it  
16 will take for someone to say, oh, okay, you  
17 want to file for custody. Here is your  
18 homework. I welcome that.

19           If my client says I am fighting for  
20 this, this and this, to give them homework and  
21 say you must come up with a plan and you must  
22 come up with reasons, guess what? Sometimes  
23 the plans are going to be put side by side,  
24 you are going to be settling the cases because  
25 they agree on some things, but you really

1 isolate the differences between them and you  
2 also isolate the similarities.

3 Now, one of the things -- And I  
4 admit, the Joint State Government version  
5 didn't pick this up, but we reread it and  
6 we're correcting it. In the legislation, it  
7 suggests that the plan is not admissible in  
8 court. And I am saying, well, if you have to  
9 file it, why wouldn't it be admissible? So we  
10 are recommending that the parenting plan  
11 always be admissible.

12 We also were a little bit  
13 sensitive. The parenting plan language--and  
14 again, this comes out of my buddies at the  
15 Joint State--talks about the control of the  
16 child. We didn't think that that was really  
17 friendly language. So we are recommending  
18 that the plan sets forth a schedule for  
19 parenting time, holidays and vacation.  
20 Control the child just doesn't sell.

21 The last one is, it talks about  
22 reference to arbitration and mediation. We  
23 would like the parenting plan to refer to  
24 alternative dispute resolution. There are a  
25 lot of people that really don't like the

1 prospect of arbitrating custody, so  
2 highlighting that might not be a good idea.  
3 But surely, alternative dispute resolution is  
4 considered in many cases. And if we have time  
5 and you want my two cents on parenting  
6 coordination, I will give it to you.

7 All right. Effective date. Now,  
8 this seems so subtle, but it's really  
9 important. The effective date talks -- We  
10 want to make it really clear that once this  
11 legislation is effective, it doesn't apply  
12 just to new cases.

13 Remember the family I told you  
14 about where the kids were, you know, four and  
15 it was six years later? So if cases stay in  
16 the system for six years, I want that family  
17 to have the benefit of this legislation. So  
18 we want to make it real clear that this  
19 legislation applies to all new petitions, not  
20 just new cases, and that is our other  
21 suggestion in that area.

22 So with that, there are always  
23 things to nick, you know, to kind of tweak a  
24 little bit more. And if you have some more  
25 suggestions and you want to come to us, or you

1 want us to come to you, we always are willing  
2 to correct ourselves.

3 Thank you very much.

4 CHAIRMAN MANDERINO: Thank you.

5 Mr. Hark.

6 MR. HARK: Thank you. Good  
7 morning. My name is Ned Hark. I am a  
8 Past-Chair of the Pennsylvania Bar Association  
9 Family Law Section. And I am also here today  
10 with the authority and support of the Family  
11 Law Section of the Philadelphia Bar  
12 Association to oppose -- or to speak in  
13 opposition to the presumption of joint  
14 physical custody.

15 My written testimony says that I  
16 have been practicing 23 years. Next week,  
17 that becomes 24 years. In those 24 years, I  
18 have represented both men and women, mothers  
19 and fathers, in custody cases.

20 I believe that I and my colleagues  
21 come before you today with this position from  
22 a standpoint of neutrality and what is in the  
23 best interest and what's best for the kids of  
24 the Commonwealth of Pennsylvania.

25 We don't sit here on one side or

1 the other as the plaintiffs' bar on the  
2 defense bar. We sit here and we come before  
3 you as individuals concerned that the  
4 litigation of custody cases and the results  
5 are appropriately--as my colleagues testified  
6 to--are appropriately set forth on the record  
7 and the litigants know why with regard to the  
8 presumption.

9           These cases come before the court  
10 and these situations evolve from unique  
11 situations. Everybody's household,  
12 everybody's family is unique. People have  
13 unique work schedules. People have unique  
14 relationships with children. In families, one  
15 parent does certain things with regard to the  
16 family scheduling or with regard to the  
17 welfare of the children and the other parent  
18 contributes in a different way.

19           These dynamics change with the  
20 evolution of the family and how many children  
21 there are and how the family grows and the  
22 needs and the activities of the children  
23 expand.

24           To take away the ability of the  
25 court to fashion a custody schedule and a

1 custody order with all of those considerations  
2 involved would hinder the children. To start  
3 out with the presumption would hinder the  
4 children because you are starting with a  
5 situation where it may not be practical.

6 And we have heard about situations  
7 of conflict earlier. In situations of  
8 conflict, to impose a schedule upon two people  
9 who can't get along and can't speak with  
10 regard to the most minute details of the  
11 child's life has an adverse effect upon the  
12 children.

13 I guess in short what I am saying  
14 is, it's important that the courts and the  
15 judges review each situation individually and  
16 enable them to come up -- in fact come up with  
17 and fashion an order that fits into the  
18 specific needs and the unique needs of each  
19 family, and each family with regard to how the  
20 parents interact on a day-to-day basis with  
21 the children.

22 Ultimately, when the judge, finder  
23 of fact, renders a decision and explains, as  
24 Mary said, why he or she is doing that, I  
25 believe the parents will get a better

1 understanding of why their situation has  
2 developed to that point and how they can move  
3 forward with regard to the children.

4 With regard to Representative  
5 Baker, I, as Justice Baer, agree that if  
6 people can work together, if everybody could  
7 get together with regard to those concerns,  
8 many of the things -- many of the things that  
9 we heard, the one judge/one family  
10 representative, representation of indigents,  
11 indigent people, or people who can't afford  
12 representation, that occurs.

13 Our bar associations -- And I am  
14 very proud to say, I am a member of two bar  
15 associations with Family Law Sections that  
16 work -- that people give countless hours of  
17 time not only to represent people but to work  
18 on concepts that you had, that you raised as  
19 concerns.

20 So if we can implement rules and  
21 understand and share these concerns back and  
22 forth, I think that we can do a lot for our  
23 families, a lot for -- especially a lot for  
24 our kids in this, in the Commonwealth of  
25 Pennsylvania.

1                   So if we work together and share  
2                   ideas going forward. And I will volunteer our  
3                   bar association. Both of them, Philadelphia  
4                   and Harrisburg, to work, to come up with ideas  
5                   so that we can implement ways to overcome  
6                   these concerns that everybody raises.

7                   I thank you for your time this  
8                   morning.

9                   CHAIRMAN MANDERINO: I thank the  
10                  panel.

11                  We do have five minutes or so for  
12                  questions, and I am going to ask  
13                  Representative Stevenson to ask the question  
14                  first.

15                  REPRESENTATIVE STEVENSON: Thank  
16                  you, Madam Chair.

17                  I am curious, as I asked the last  
18                  panel -- You were here, I believe, for Justice  
19                  Baer's testimony, and he indicated that  
20                  perhaps legislation is not necessary in this  
21                  case.

22                  Some of the suggestions you made in  
23                  tweaking the legislation as provided, could  
24                  you comment, one of you or a couple of you, on  
25                  that thought, whether or not legislation is



1 necessary or whether it is better to perhaps  
2 proceed in another direction?

3 MR. WILLIAMS: May I start it?

4 MS. DOHERTY: Sure.

5 MR. WILLIAMS: And then, obviously,  
6 Mary and Ned, any comments you have.

7 Interestingly enough -- I mean  
8 Representative Baker's ideas are ideas that  
9 we, when we reviewed the legislation, we were  
10 very much impressed with the ideas.

11 The problem is when you are an  
12 attorney looking at something, you always are  
13 worried about the three branches of government  
14 that we learned about in fourth grade. But  
15 one, and partly, I don't think the  
16 constitutional amendment is required. And I  
17 hate to say this, given the state of the  
18 economy, what's required is money because the  
19 fact is that we need more court time.

20 The most frustrating thing for me  
21 is even if you get one judge, one family, to  
22 try a custody case over five days in Bucks  
23 County, it takes six months. Because you will  
24 get a day and then you will get a day the next  
25 month, and you will have to get the transcript

1 and review it. It leads to -- The cost is  
2 greatly increased, but more than that the  
3 frustration of the litigants who want an  
4 answer is greatly delayed.

5 I don't -- I think that the ideas  
6 as contained in the two companion bills of  
7 Representative Baker could be implemented  
8 within the purview of the existing laws.

9 And you have a very strong leader  
10 in Justice Baer in terms of -- We were  
11 discussing something two weeks ago, and he  
12 said, well, if that's the view of the bench, I  
13 will take care of it by rule. I mean you have  
14 a person who is willing to act with  
15 decisiveness and that's what -- so I think  
16 that's what we need.

17 MS. DOHERTY: One thing that we  
18 have seen from the Rules Committee, and that  
19 really there has been a responsibility taken  
20 by our appellate courts, is forcing our trial  
21 judges to act with dispatch.

22 We do have rules on expediting  
23 custody trials, and trials must move forward,  
24 so I think working with the rules that we have  
25 is very important.

1           One of the things that Justice Baer  
2           referred to is Unified Family Court. And I  
3           have got to tell you, no judge in this state  
4           likes to hear Unified Family Court because  
5           they don't want their other county to tell  
6           them how to do what they like to do their way;  
7           my way is the best way.

8           But we actually do have model rules  
9           on family court. I call it family court  
10          reform; it's a little bit more generic. But  
11          the whole idea of having one judge/one family  
12          and having a layered system, where the judge  
13          is cognizant if this family has been in a  
14          juvenile matter, or you have got a child that  
15          there is an overlap between the different  
16          portions of the court. So those rules are out  
17          there.

18          And there actually has been four  
19          counties that have been working with those  
20          rules. I think we go to them and say we want  
21          a report, and I think what you are going to  
22          hear is, you know, if we had more money, we  
23          could do more with it.

24          But we are working on that. I  
25          think it's the responsibility of the

1     judiciary. And I think we have to support  
2     them and make it happen.

3                     MR. HARK: I think when we talk  
4     about rules and working together on improving  
5     family court in general, we can't lose sight  
6     of the fact that there are so many cases that  
7     are in the system that are pro se on both  
8     sides.

9                     In Philadelphia County, the number  
10    changes slightly, but about 90 percent of  
11    those cases are cases in which both sides are  
12    pro se. So when we are talking about rules  
13    and we are talking about coming up with ideas,  
14    we need to consider the fact that we are only  
15    involved in about 10 percent of the cases in  
16    that courthouse.

17                    I mean it may be different in other  
18    counties, but specifically with regard to  
19    Philadelphia, it's about 90 percent. You  
20    can't lose sight of that.

21                    MR. WILLIAMS: And one other  
22    comment and then I'll hush.

23                    Part of it, too, is the view that  
24    people, judges, the system brings to family  
25    court. They are happy to give you three days

1 to try a \$28,000 fender-bender in personal  
2 injury court, but you ask for three days in  
3 custody court and they think you have two  
4 heads. Part of it is placing an emphasis on  
5 the importance of family law litigation.

6 REPRESENTATIVE STEVENSON: Thank  
7 you for your ideas on that, and I appreciate  
8 your time today.

9 MR. WILLIAMS: Thank you all.

10 CHAIRMAN MANDERINO: We have a few  
11 more minutes. Attorney Dalton has a question.  
12 Let me just interject one real quick one.

13 Ms. Cushing Doherty, when you said  
14 how -- Can anybody give me an idea of how much  
15 appellate litigation just comes from getting  
16 the answer to the question of why you made the  
17 decision at the trial court level? Is there  
18 any way to, just given your sense?

19 MS. DOHERTY: We can go back and  
20 see if we could find out, but I can't tell you  
21 that right off the top of my head.

22 MR. WILLIAMS: Not a lot.

23 My concern is more from the sort of  
24 right to know. As our judges get younger,  
25 frankly, they tend to be more concerned about

1 what the litigants think. So, at least in  
2 Bucks County, as the older guys retire, the  
3 situation is getting better. But it ought to  
4 be required of all of the judges.

5 CHAIRMAN MANDERINO: All right.  
6 Thank you.

7 Karen.

8 MS. DALTON: Thank you, Madam  
9 Chairman.

10 I would like to ask you three  
11 questions about House Bill 1639, if I might.  
12 The first has to do with the issue of the GAL,  
13 which you raised.

14 MS. DOHERTY: Um-hum.

15 MS. DALTON: You mentioned that the  
16 guardian ad litem should not be an advocate  
17 and someone who is cross-examined.

18 MS. DOHERTY: Oh, I am sorry,  
19 that's not actually correct. But go ahead.

20 MS. DALTON: Okay. Well, what did  
21 you say then?

22 MS. DOHERTY: The guardian ad litem  
23 should not be a fact witness, but should be  
24 recognized as an advocate but not as a fact or  
25 an expert.

1 MS. DALTON: Okay. Then let me  
2 just ask you -- And I have got to admit, I  
3 have only been in court twice. And I have  
4 lost once and I won once. I lost --

5 CHAIRMAN MANDERINO: Then you're  
6 50-50.

7 MS. DALTON: I won representing a  
8 representative and coming by a loss  
9 representing myself. And so, I am not  
10 familiar with family court.

11 But I was curious about this  
12 language, and it is on page 26 at lines 21  
13 through 23, where it says, a guardian ad litem  
14 who submits a report or makes a recommendation  
15 to the court shall be subject to examination  
16 by the parties. I was wondering about that,  
17 whether that's appropriate?

18 And I know that under our Juvenile  
19 Act, we have provisions for a GAL. And I was  
20 wondering what the current practice was, if  
21 you could speak to that, please?

22 MS. DOHERTY: If you have my  
23 submission, I had the benefit of the  
24 Children's Rights Committee.

25 If you look at my submission, what

1 it recommends is that evidence subject to  
2 examination should now read: A lawyer  
3 appointed as guardian ad litem may not testify  
4 except as authorized by--and insert state rule  
5 cite on lawyers testifying--but may make legal  
6 argument based on relevant evidence.

7 The non-lawyer guardian ad litem is  
8 a different person. A non-lawyer guardian ad  
9 litem may testify regarding and may submit a  
10 report regarding the guardian ad litem's  
11 recommendation relating to the child's best  
12 interests, which shall be subject to  
13 examination.

14 The guardian ad litem, unlike  
15 counsel -- I mean counsel, we know about  
16 lawyer's advocate and counsel for the child.  
17 But the guardian ad litem, some people call it  
18 the best interest person. They are supposed  
19 to investigate, for the court, the issue of  
20 best interest.

21 A lawyer who is guardian ad litem  
22 cannot change their stripes and not be a  
23 lawyer any more.

24 If the judge wants the guardian ad  
25 litem to testify, the judge should have the



1 guardian ad litem be a non-lawyer. The  
2 classic would be a social worker or someone  
3 that has some professional background.

4 So we just want to clarify that.  
5 That the lawyer who is given the label of  
6 guardian ad litem, you don't want them to have  
7 too many roles in the same courtroom. Oh, I  
8 am advocating. I am testifying. I am an  
9 expert. So that's in a nutshell.

10 MS. DALTON: Current practice under  
11 the Juvenile Act is what, then, in terms of  
12 being able to examine the guardian ad litem?

13 MS. DOHERTY: The Children's Rights  
14 Committee say this is consistent with the best  
15 practice, and I can't cite --

16 MR. WILLIAMS: County to county, it  
17 is -- there is nothing more at variance than  
18 the GAL. They are not appointed at all in  
19 some counties. Some counties appoint them in  
20 every custody case. Some counties insist that  
21 they be lawyers, some not. And some judges  
22 say, I don't care whether you are an attorney  
23 or what you think you are, get on the stand;  
24 everybody has a right to cross-examine you.

25 County to county, it varies more

1 than anything you have ever seen.

2 MS. DALTON: Thank you very much,  
3 Madam Chairman.

4 CHAIRMAN MANDERINO: Thank you.

5 We may have -- I cut Ms. Dalton  
6 off, so we may have some follow-up questions  
7 for you in writing.

8 Thank you very much for testifying.

9 MR. WILLIAMS: Thank you for your  
10 time and for having us here.

11 MR. HARK: Thank you.

12 MS. DOHERTY: Thank you.

13 CHAIRMAN MANDERINO: Next to  
14 testify from the National Association of  
15 Social Workers, Pennsylvania Chapter, is Jenna  
16 Mehnert, the Executive Director.

17 And as Jenna is coming to the  
18 table, I am going to pass the Chair,  
19 temporarily, to Representative Stevenson, and  
20 I will be back in a few minutes.

21 ACTING CHAIRMAN STEVENSON: Thank  
22 you, Madam Chair.

23 Ms. Mehnert, thank you for being  
24 with us today, and you may begin your  
25 testimony when you are ready.

1 MS. MEHNERT: Sure. My name is  
2 Jenna Mehnert. I am the Executive Director of  
3 the Pennsylvania Chapter of the National  
4 Association of Social Workers. There are  
5 about 40,000 degreed social workers in the  
6 Commonwealth of Pennsylvania, about 11,000 of  
7 them are licensed mental health providers.

8 And our testimony today, which is  
9 somewhat based off of our written testimony,  
10 is going to focus on the weekly calls I get  
11 from those social workers who find themselves  
12 in custody battles, caught often in the  
13 middle.

14 Social workers, as you know, work  
15 in schools, work in nursing homes, and many of  
16 them work in private practice as mental health  
17 providers. And I get calls often from those  
18 who are in private practice for two different  
19 reasons that I want to just make sure come to  
20 your attention as you think about child  
21 custody issues in the Commonwealth of  
22 Pennsylvania.

23 Obviously, the National Association  
24 of Social Workers believes strongly that  
25 children need to have access to both parents

1 in an appropriate way and ensure that those  
2 parents are involved in their children's  
3 upbringing.

4 The two issues that social workers  
5 find themselves caught in, the first one has  
6 to do with talk therapy. Social workers are  
7 actually the largest provider of talk therapy  
8 in the country, according to SAMHSA.

9 And what I get calls about are, all  
10 of a sudden, a talk therapist, a social  
11 worker, either an LSW or LCSW, will have been  
12 providing therapy to children or couple's  
13 counseling and the couples decide to divorce,  
14 or the parents have decided to divorce, and  
15 one of the parents wants to force the child --  
16 the child's counseling to stop.

17 As you know, the Mental Health  
18 Consent Act in Pennsylvania, a child over the  
19 age of 14 can consent to mental health  
20 services.

21 However, children, who are in  
22 divorce situations, or have been in therapy  
23 prior to divorce, often need to continue with  
24 mental health services.

25 And many therapists, many social

1 workers find that they are in a situation  
2 where one parent has decided, for some reason,  
3 often just because of the conflict, that that  
4 child should no longer see that therapist, or  
5 that therapist likes the parent better, or,  
6 you know, for some reason they are not willing  
7 to consent to therapy, which often ends  
8 up--and lots of the motions that were talked  
9 about earlier--therapeutic relationships that  
10 have been going on for years are terminated or  
11 interrupted. Social workers are afraid. They  
12 are not sure what to do. They want to  
13 continue to work with children and in a way  
14 that's appropriate.

15 So one of the things that we would  
16 like to bring to your attention is some type  
17 of adjustment, especially in 1639, where  
18 children have the ability to continue with  
19 mental health services or seek mental health  
20 services if both parents are -- share equal  
21 information.

22 Therefore, no parent is given, you  
23 know, greater access to the therapist and any  
24 information shared with one parent is shared  
25 with the other parent.

1                   But that it -- that a parent can't  
2 prevent a child from seeking mental health  
3 services or from continuing in mental health  
4 services as part of a custody debate or evalu  
5 -- You know, debate. I don't want to say  
6 battle, but as a part of the custody process.  
7 That children who are engaged in therapy are  
8 able to continue to -- to receive those  
9 therapeutic services.

10                   And that each time there is some  
11 issue, it doesn't require court intervention  
12 to -- Because I have to say to my folks who  
13 call me, well, you are going to have mom or  
14 dad, whoever it is that wants to have the  
15 child continue in therapy, go get a court  
16 order that you can continue to serve as the  
17 therapist if one parent is now revoking  
18 consent for you to provide therapy because you  
19 don't want to be caught in the middle of that.

20                   So just from the ability to  
21 continue with services, that's one of the  
22 major issues that the social workers  
23 encounter.

24                   The other issue that social workers  
25 encounter often is that of child custody

1 evaluations.

2 I get calls frequently from social  
3 workers who are in the same situation. They  
4 have either been seeing both parts of the  
5 couple in couple's counseling, or they have  
6 been seeing one of the children or all of the  
7 children in a family in counseling, and they  
8 need -- that family then is in a situation of  
9 needing a custody evaluation done. And they  
10 have been asked as the couple's counselor, or  
11 former couple's counselor, or as the child's  
12 therapist to provide that custody evaluation,  
13 and they want to know if that's okay.

14 And all the time, I tell them, no,  
15 absolutely it's not okay. If you have any  
16 existing relationship, you should not be in  
17 that role.

18 So one of the things that the  
19 National Association of Social Workers really  
20 advocates strongly for is to have a standard  
21 in 1639 that is based on the custody awarding  
22 guidelines outlined in Section 5328, where it  
23 requires that the person possess sufficient  
24 knowledge, skills, experience, training,  
25 education and licensure to qualify under the

1 Federal Rules of Evidence as an expert  
2 witness.

3 We think that there are many  
4 concerns around domestic violence, child  
5 abuse. We have all heard the other folk's  
6 stories about allegations that were made.

7 We think one of the most important  
8 parts of determining what's going to happen in  
9 custody is a qualified custody evaluation done  
10 by someone who is going to meet that standard  
11 of really having a background, a code of  
12 ethics grounding them in doing a sound custody  
13 evaluation to help inform a judge with what  
14 really is the situation.

15 Obviously, we support parenting  
16 plans. We support mediation. We support all  
17 of the ways that would lessen conflict, but  
18 realizing that there will be situations where  
19 you need to make sure the judge has as sound  
20 information as possible, and that information  
21 should be based on somebody who is qualified,  
22 trained, licensed to provide an appropriate,  
23 competent custody evaluation and not by  
24 someone who has been, you know, mom's  
25 therapist or dad's therapist or the child's



1 therapist, or has access to, you know,  
2 information that might predispose their  
3 suggestions or recommendations.

4           So we really feel strongly that it  
5 really needs to be recognized as a specialty  
6 practice, that folks need to have the  
7 background to provide, and not put individuals  
8 in uncomfortable situations of having  
9 pre-existing relationships or unethical  
10 situations where they are predisposed towards  
11 one parent previous to starting those  
12 evaluations.

13           So those are the two issues that  
14 social workers -- the ability to continue  
15 providing therapy to children who need mental  
16 health services where that therapy is being  
17 challenged by one of the parents, and the  
18 ability to ensure that quality custody  
19 evaluations are conducted by licensed,  
20 competent professionals who would meet the  
21 federal standard as expert witnesses.

22           Those are the two calls that we get  
23 frequently at the National Association of  
24 Social Workers for individuals caught in  
25 the -- as professionals, in the middle of

1 custody debates, wanting to ensure that the  
2 best interests of the child is the standard  
3 that is met and the challenges that surround  
4 them.

5 CHAIRMAN MANDERINO: Thank you very  
6 much, Ms. Mehnert. Questions?

7 Okay. You just helped us get back  
8 on schedule.

9 MS. MEHNERT: I know. I knew you  
10 would be happy with me.

11 CHAIRMAN MANDERINO: We love you  
12 for that.

13 MS. MEHNERT: I know you would.

14 CHAIRMAN MANDERINO: Thank you very  
15 much.

16 Next up is the panel from the  
17 Pennsylvania Coalition Against Domestic  
18 Violence, Ellen Kramer, Nicole Lindemyer,  
19 Douglas Hearn and William Baldwin.

20 And I will remind you, it always  
21 makes me nervous when I have a 15-minute time  
22 slot and four people walked up. And I will  
23 keep you to your 15-minute time slot.

24 So I will ask you to get settled  
25 and introduce each of you so the stenographer

1 knows which name goes with which person. And  
2 then I trust that you have allocated your time  
3 amongst you in a way that keeps us within that  
4 timeframe, and we will go from there.

5 MS. KRAMER: Good afternoon,  
6 Representative Manderino, Representative  
7 Stevenson, members of the committee and staff.

8 In fact, we are aware we have 15  
9 minutes.

10 My name is Ellen Kramer. I am the  
11 Legal Director of the coalition. I am joined,  
12 to my immediate right, by Nicole Lindemyer,  
13 who is our Public Policy Manager; Bill  
14 Baldwin; and Hearn. And we do fully intend to  
15 keep to our 15-minute time allotment, probably  
16 by talking very fast. But we are going to  
17 give it a try.

18 We are very honored to be here  
19 today and to have this opportunity to share  
20 with you some of our thoughts and priorities  
21 around the three custody bills that are before  
22 you for consideration.

23 I would like to start really by  
24 hearkening back to Justice Baer's comments,  
25 and maybe that's in anticipation of

1 Representative Stevenson's likely first  
2 question, and say to you that we are fully in  
3 support of his approach where he says we have  
4 to be child focused. We believe that's the  
5 way to go, and that we have to keep in mind  
6 what's in the best interest of children.

7           And when he says the parents need  
8 to work it out, that they need to get over the  
9 hump of high conflict, in the vast majority of  
10 cases that works and it is plausible or  
11 do-able.

12           But what we want to make sure you  
13 keep in mind is that high conflict is not the  
14 same as domestic violence. And that, in a  
15 great number of custody cases that appear in  
16 front of our judges, there is in fact real  
17 domestic violence and people are dying as the  
18 result of it.

19           And I hazard a guess that each of  
20 you, in your respective districts, has become  
21 aware of a case of domestic violence where  
22 either parents or children or both have been  
23 murdered at the hands of an abuser. So we  
24 don't want to lose that important perspective  
25 as we move forward with this legislation.

1                   DV, domestic violence, is not  
2 necessarily resolved by anger management  
3 classes or drug and alcohol classes.

4                   And in a child-focused system, we  
5 have to be common sensible. We have to keep  
6 the safety of children at the forefront, and  
7 it's what we do every day as parents. So we  
8 know that when we have kids, we get them  
9 vaccinated. When they start exploring their  
10 worlds, we run around and we do outlet covers  
11 everywhere. And suddenly, the 10-second rule  
12 that's okay when our snack hits the floor  
13 becomes zero tolerance when their Cheerios get  
14 tossed.

15                   So we want to be sure that those  
16 concepts of keeping children safe are fully  
17 applied as we think about custody litigation.  
18 In fact, and I think this was referred to  
19 earlier in this morning's testimony, about 80  
20 percent of all custody cases are resolved  
21 short of court action. The parents do work it  
22 out.

23                   So really what we are talking about  
24 is 20 percent of cases which go forward with  
25 litigation. And that may be because it is

1 high conflict, but it may be simply, and  
2 importantly, because there is domestic  
3 violence and there just is no working it out  
4 between the parties, that they do need the  
5 professional intervention of a well-reasoned  
6 court and good laws behind it.

7 So when we talk about 20 percent of  
8 contested cases, what we know is that about 50  
9 to 70 percent of them actually have very real  
10 domestic violence in them.

11 Crucial. It's absolutely crucial  
12 that Pennsylvania custody laws and the rules  
13 of procedure, if we move forward to amend  
14 those, never lose sight of that. And we want  
15 to ensure that children are safe and that  
16 their non-abusive parents are safe as well, as  
17 courts begin to make custody orders.

18 I would ask you to keep mind, and I  
19 am sure you have heard us say this in the  
20 past, that domestic violence is about power  
21 and control. And at the time of separation is  
22 when an abusive parent feels the most out of  
23 control, his power, his control of the family  
24 is being challenged. The same thing with  
25 child custody cases. So it's at this time

1 when separation violence becomes very real and  
2 women living in abusive relationships are at a  
3 heightened concern for the safety of  
4 themselves and their children.

5 About 25 percent of domestic  
6 violence homicides are in fact witnessed by  
7 the victim's children. Children are exposed  
8 to this on a daily basis. One in eight  
9 homicides are -- find the abuser also killing  
10 one of the children, in their quest to harm  
11 the victim, the adult victim.

12 In about 30 to 60 percent of  
13 perpetrators -- About 30 percent, 30 to 60  
14 percent of perpetrators also abuse the  
15 children in the household. So when you think  
16 about non-abusive parents being in a home with  
17 an abuser and the children, we know that the  
18 non-abusive parent can intervene, can buffer  
19 the violence, can protect the children.

20 But when courts begin to order  
21 non-supervised custody, non-supervised  
22 visitation to abusive parents, the non-abusive  
23 parent loses that ability to protect the  
24 children and so the children's safety is at  
25 heightened -- at heightened danger.

1           It is a sad truth that abused  
2           parents too often lose custody of their  
3           children to the abusive parent. We know we  
4           have heard allegations, it was said today,  
5           that people use allegations of domestic  
6           violence somehow to get a leg up on custody.  
7           The research, the data just doesn't bear that  
8           out.

9           Abusive parents are twice as likely  
10          to seek custody of their children than  
11          non-abusive parents, and they are successful  
12          about 70 percent of the time.

13          And our testimony makes reference  
14          to the source of that data. One study that we  
15          cite shows that 39 percent of abusers with a  
16          history of inflicting severe injury to the  
17          other -- on the other parent were granted  
18          court-ordered, unsupervised visitation.

19          And another study found that, each  
20          year, at least 58,500 children in the United  
21          States are placed at risk for injury because  
22          the courts have ordered them into the  
23          unsupervised care of a violent parent.

24          So we urge you not to lose sight of  
25          the dangers inherent in domestic violence



1 situations to ensure that the safety of  
2 children are prioritized. And as we move  
3 forward, keep in mind the dangers inherent in  
4 these very violent situations.

5 MS. LINDEMYER: Hello. My name is  
6 Nicole Lindemyer, and I am the coalition's  
7 public policy manager.

8 In the context of the safety  
9 concerns just addressed, I want to discuss the  
10 coalition's rationale for its strong  
11 opposition to House Bill 463 and similar  
12 presumptive joint custody proposals that have  
13 been introduced year after year and rejected  
14 each year.

15 As you know, current Pennsylvania  
16 custody law requires courts to make their  
17 decisions based on the best interests of the  
18 child. House Bill 463 would replace the best  
19 interests of the child standard with a  
20 mandatory presumption of joint custody in all  
21 cases, regardless of the individual  
22 circumstances present in each case.

23 This one size fits all approach  
24 ignores critical factors that bear on the  
25 safety and well-being of children.

1                   And the coalition opposes  
2 presumptive joint custody for a host of  
3 reasons. First, presumptive joint custody  
4 ignores pre-separation family circumstances.  
5 It gives no consideration to a parent's prior  
6 involvement with the child. Rather, it  
7 requires courts to grant custody to parents  
8 who are only marginally involved or who were  
9 inadequate parents before the separation. A  
10 legal presumption that joint custody be  
11 ordered prevents judges from taking these and  
12 other circumstances into account.

13                   Second, a presumption of joint  
14 custody would increase the adversarial nature  
15 and expense of litigation. To overcome the  
16 presumption, a parent would have to prove that  
17 joint custody is not good for the children,  
18 leading to accusations of parental unfitness  
19 and character attacks. Custody cases would  
20 thus become even more contentious and lengthy,  
21 all the while leaving the children in a state  
22 of uncertainty and instability.

23                   What's more, families are more  
24 likely to relitigate custody issues where  
25 courts mandated joint custody. As mentioned

1 earlier by Justice Baer, this was precisely  
2 the finding in Oregon, where once they enacted  
3 a presumption of joint custody, litigation  
4 nearly doubled.

5           It is also telling that one state,  
6 California, did enact a presumption of joint  
7 custody back in 1979. But then after years of  
8 contention, they repealed it in 1994 because  
9 it was simply unworkable. The barriers cited  
10 by California judges were a lack of parental  
11 cooperation, continuing parental conflict, and  
12 instability for the children, making the  
13 presumption impossible to implement  
14 successfully.

15           Third, presuming that joint custody  
16 -- that custody should be split jointly  
17 prioritizes parents' desires over what is best  
18 for children. Joint custody may work well  
19 where parents can cooperate, put their  
20 children's interests ahead of their own, and  
21 who live near each other. Many divorcing  
22 families simply don't meet these criteria.

23           Moreover, where there is ongoing  
24 conflict between parents, joint custody has  
25 been linked to higher levels of emotional,

1 behavioral and social problems for the  
2 children, making it clearly inconsistent with  
3 their best interests.

4           Now, the foregoing reasons apply to  
5 all custody cases regardless of whether  
6 domestic violence has occurred. With  
7 particular regard to cases involving abuse,  
8 presumptive joint custody simply fails to  
9 acknowledge the overwhelming prevalence of  
10 domestic violence cases in our custody system.

11           As mentioned earlier, the vast  
12 majority of separating parents are able to  
13 agree on parenting arrangements. In a subset  
14 of cases in which parents do not agree, the  
15 majority of these cases involved domestic  
16 violence as a major factor. These are the  
17 cases in which the parents turn to the courts  
18 for resolution and to which courts apply  
19 custody law.

20           The problems of domestic violence  
21 within this subset of cases strongly compels  
22 that custody law address safety from abuse  
23 throughout every provision. House Bill 463  
24 would do exactly the opposite, ignoring  
25 domestic violence and preventing judges from

1 even considering it.

2                   What's more, mandating ongoing  
3 contact with a known abuser directly  
4 contradicts strong public policy interests in  
5 preventing domestic violence and protecting  
6 its victims. A law that would effectively  
7 force domestic violence victims to have  
8 ongoing contact with their abusers endangers  
9 victims and thereby flies in the face of the  
10 policy interests in protecting victim safety.

11                   The tragic reality is that  
12 sometimes the co-parent of a child is the very  
13 same person who has brutally abused the  
14 co-parent, including threats and even attempts  
15 to kill. I can think of no other context in  
16 which it would be acceptable for a crime  
17 victim to be court-ordered into ongoing  
18 contact with the perpetrator of the crime who  
19 still poses a very real safety risk.

20                   The coalition strongly urges the  
21 legislature to continue to reject presumptive  
22 joint custody, to maintain the best interests  
23 of the child standard, and to prioritize  
24 safety from abuse throughout all of custody  
25 law.

1 CHAIRMAN MANDERINO: Okay. Mr.

2 Hearn and Mr. Baldwin, we have like four

3 minutes left, so.

4 MR. BALDWIN: Madam Chairwoman and

5 members of the committee, thank you for

6 inviting us today. And I will be very, very

7 brief.

8 Again, my name is William Baldwin.

9 I am an attorney and Deputy Director of Laurel

10 House, a domestic violence program located in

11 Montgomery County. But over the past 17

12 years, I have worked at programs in Bucks and

13 Delaware counties.

14 So as you can imagine, I have

15 represented hundreds of custody cases during

16 the course of my career. And I know what a

17 tremendous impact custody law has on the lives

18 of domestic violence victims and their

19 children.

20 House Bill 1639, which is what I

21 would like to address today, I think has some

22 great potential to reform custody law.

23 However, there need to be some amendments and

24 some considerations given to the safety of

25 domestic violence victims and their children.

1                   And I will just, real briefly, talk  
2                   about three recommendations or three areas of  
3                   concern that we have.

4                   The first is that House Bill 1639  
5                   should include a rebuttable presumption  
6                   against awarding custody to a known abuser.  
7                   So in a court situation, if a judge hears  
8                   evidence and finds evidence that there is  
9                   abuse by one parent, the judge could presume  
10                  that it is not in the best interests of the  
11                  child to award that parent joint custody  
12                  without placing safeguards in effect; also,  
13                  giving that parent the opportunity, the parent  
14                  who is alleged to be the abuser, the  
15                  opportunity to mitigate those safety concerns  
16                  by seeking counseling or by showing the court  
17                  that he or she doesn't pose a danger to the  
18                  child.

19                  Twenty-four states already  
20                  incorporate rebuttable presumption into their  
21                  custody law, and we would ask that  
22                  Pennsylvania do the same.

23                  The second area of concern we have  
24                  regards Section 5329(c) of the House Bill,  
25                  which would water-down some of the language of

1 the Jen and Dave's law.

2 As the court well knows, Jen and  
3 Dave's Law was vanguard legislation. And one  
4 of the provisions of that law says that in  
5 cases where a parent has been accused -- or  
6 excuse me, a parent has been charged or  
7 convicted of certain enumerated crimes which  
8 may pose a harm to the child, that that parent  
9 would have to go for counseling by a certified  
10 professional and would provide a report to the  
11 court before the court would allow contact of  
12 that parent with the child.

13 5329 (c) makes that provision  
14 optional, so a judge could grant contact  
15 without having outside professional expertise  
16 or without having an assessment from an  
17 outside source. So again, we would ask that  
18 that provision not be changed.

19 And thirdly, I will speak very  
20 briefly because I think Justice Baer explained  
21 this very well this morning, is incorporation  
22 of the approximation rule into custody  
23 legislation.

24 Again, the approximation rule says  
25 that a snapshot of the family at the time of



1 separation is taken. The parent that has been  
2 the primary caregiver should remain the  
3 primary caregiver. And I think studies have  
4 shown that that's shown great success in terms  
5 of children thriving in a custody situation.

6 Even our own precedent, 30 years of  
7 precedent in Pennsylvania, support the  
8 approximation rule. And as recently as 2009,  
9 the Superior Court, in Gianvito versus  
10 Gianvito, upheld that.

11 So again, I thank the panel, and I  
12 ask you to give serious consideration to the  
13 concerns of domestic violence victims and  
14 their children in this legislation.

15 Thank you.

16 CHAIRMAN MANDERINO: Mr. Hearn, you  
17 have got one minute.

18 MR. HEARN: Oh, dear.

19 I am Douglas Hearn. I am an  
20 attorney with 15 years of experience  
21 representing low-income clients, primarily  
22 family law.

23 I want to address the panel today  
24 largely about the low-income families and how  
25 their needs need to be met under this

1 legislation.

2                   This bill needs to address the  
3 substantial costs raised in the custody  
4 process and needs to provide an avenue for  
5 these low-income parents to afford equal  
6 justice.

7                   People with low incomes can waive  
8 their fees through an in forma pauperis, an  
9 IFP process. However, the number of fees  
10 cannot be waived.

11                   The people have talked about that  
12 today, custody evaluations, GAL's, home  
13 studies. All of these things cost money, and  
14 these have to be paid for before the case will  
15 progress. This leaves the family in a  
16 two-tiered system of justice, where those who  
17 can afford those systems get justice and those  
18 who can't have their cases delayed for a very  
19 long time.

20                   So I think it's critical that the  
21 subcommittee address those concerns.

22                   A related concern is the lack of  
23 legal representation which has been addressed  
24 by members of the PBA. The number of  
25 self-represented litigants has grown

1 exponentially and the vast majority of those  
2 are low income.

3           A study recently of more than  
4 17,000 eligible people in Pennsylvania,  
5 concluded that more than 50 percent of those  
6 who are talking to legal services programs  
7 were turned away; about 30 percent got  
8 low-income, limited help, free advice; and  
9 only the remaining 20 percent were provided  
10 with extended representation.

11           These pro se litigants need the  
12 help that they are not going to get. And  
13 where domestic violence is involved, they are  
14 less likely to be protected from their abusive  
15 partners who use the court system against  
16 them.

17           So with so many people representing  
18 themselves in court, I think any custody  
19 reform must incorporate processes that are  
20 easy to understand and follow; at a minimum,  
21 statutes should be written in plain language  
22 that is readily understood by non-lawyers;  
23 standardized forms must be developed and  
24 accessible and should set forth, clearly, what  
25 information is required.

1                   And I am assuming that --

2                   CHAIRMAN MANDERINO: And I thank  
3                   you.

4                   MR. HEARN: Thank you.

5                   CHAIRMAN MANDERINO: And I  
6                   apologize, but we don't have enough time for  
7                   questions for this panel.

8                   But we do only have one more panel  
9                   between now and lunch, so if those of you who  
10                  can stay in the room, will. And if members  
11                  have individual questions, maybe they can  
12                  catch you on the break.

13                  And thank you very much for coming  
14                  to give your testimony.

15                  MS. KRAMER: Thank you.

16                  MR. BALDWIN: Thank you.

17                  CHAIRMAN MANDERINO: Next we have a  
18                  panel, and I am going to call folks up  
19                  together. I put two different groups together  
20                  on a panel because I thought that the  
21                  questions from the members, if there are any,  
22                  would probably be similar and that would help  
23                  us save time.

24                  But we have allotted a half hour  
25                  for this panel. Fifteen minutes for Tom

1 Tessaro, who is the spokesperson for the  
2 Greater Pittsburgh Chapter of the National  
3 Congress for Fathers and Children. And then  
4 we have two people splitting the time from the  
5 Fathers 4 Justice group, and that's Jeffrey  
6 Dick, spokesperson for Fathers 4 Justice, and  
7 Mike McCormick, spokesperson for the American  
8 Coalition for Fathers and Children.

9 So I guess -- Who is Mr. Tessaro?

10 MR. TESSARO: I am Thomas Tessaro.

11 CHAIRMAN MANDERINO: Okay. And  
12 where is Mr. Dick and Mr. McCormick?

13 MR. TESSARO: Mr. McCormick is here  
14 to my left and Mr. Dick is --

15 MR. DICK: Yeah. I would like to  
16 say, we agree we are going to go 10, 10 and  
17 10; instead of 15, seven and a half, seven and  
18 a half.

19 CHAIRMAN MANDERINO: That would be  
20 fine with me, too.

21 And again, I would just caution  
22 you, as you noticed from the last panel, I am  
23 a heavy task master. So if you cannot take  
24 your whole 10 minutes, it will leave some time  
25 for members to ask you questions.

1 MR. TESSARO: Thank you.

2 CHAIRMAN MANDERINO: Mr. Tessaro,  
3 please begin.

4 MR. TESSARO: If I could yield five  
5 minutes of my 15 minutes to Mr. McCormick?

6 CHAIRMAN MANDERINO: Okay.

7 MR. TESSARO: We wanted to get all  
8 three of us up here.

9 I am Thomas Tessaro. I work  
10 voluntarily with the National Congress for  
11 Fathers and Children. To my left is Jeffrey  
12 Dick, with Fathers 4 Justice. And to his left  
13 is Michael McCormick, National Director of the  
14 American Coalition of Fathers and Children, up  
15 from Washington, D.C.

16 Madam Chairman, I was going to have  
17 a PowerPoint presentation. But due to time  
18 restrictions, I would like to possibly show  
19 that at lunch. It's by one of the children of  
20 the members in our Pittsburgh Chapter.

21 Thank you for the opportunity to  
22 speak. Members of the committee, Madam  
23 Chairman, we appreciate it.

24 The proposed legislation currently  
25 on the table, 418, 463 and 1639, will -- even

1 any one of those bills will greatly affect the  
2 fathers that I talk with on a daily basis in  
3 the Pittsburgh area.

4 And I speak as a position of an  
5 ordained minister, who currently is working as  
6 a registered professional engineer in  
7 Pittsburgh, in Pennsylvania. And I have  
8 several years of pastoral experience behind  
9 me, several years of marital counseling  
10 experience as well.

11 And as far as we are concerned, I  
12 am concerned, the culture of custody in  
13 Pennsylvania definitely needs to be changed.  
14 In the trenches, we see it as an exploitive,  
15 misandric atmosphere that really tends to  
16 separate fathers from their children at --  
17 when there is no real need to do so.

18 I will offer critique really on  
19 House Bills 418 and 1639 towards the end of my  
20 10 minutes. And what I mainly will say is  
21 offer the support for presumptive joint  
22 custody in the bulk of my comments.

23 We know, and it has been mentioned  
24 already, the damaging effects of  
25 fatherlessness around this, in the panels that

1 have preceded us. Research shows that  
2 fathers' presence in the lives of children is  
3 the single most important factor that  
4 determines whether or not children will be  
5 successful.

6 This factor overrules socioeconomic  
7 factors, ethnic and geographical factors, race  
8 and religion. Children with a father do  
9 better than children without a father.

10 And children from fatherless homes,  
11 as was already said, are far more likely to  
12 commit suicide; become teenage mothers, if  
13 they are girls; run away; have behavioral  
14 disorders; commit rape; drop out of school;  
15 end up in state institutions or prison while a  
16 teenager.

17 Compared with children who are in  
18 the care of two biological parents, children  
19 who are in the care of a single mother are 23  
20 more times likely to be seriously abused so  
21 that they will require medical attention and  
22 73 times more likely to be killed.

23 Children are regularly taken from  
24 fathers in Pennsylvania. Despite statistics,  
25 knowing that children don't do as well without



1 the presence of a father, despite those  
2 statistics, nearly two of every five children  
3 in America do not live with their father and  
4 the courts continue to award primary custody  
5 to mothers. With the result that two years  
6 after the divorce, 51 percent of children in  
7 sole mother custody homes only see their  
8 father once or twice a year, or never at all.

9 Now, statistics from the courts'  
10 website and from the National Institutes of  
11 Health, boil out, they -- about 61,000 fathers  
12 are removed from the lives of their children  
13 every year in Pennsylvania. I think that is a  
14 staggering statistic.

15 And I can just tell the committee  
16 how that statistic is derived. Two months  
17 ago, November of 2009, the Census Bureau  
18 reported that mothers account for the majority  
19 of single custody parents, about 83 percent,  
20 while fathers account for only 17 percent of  
21 single custodial parents; proportions that are  
22 statistically unchanged from 1994.

23 In Pennsylvania, currently, over  
24 660,000 children live apart from their father  
25 in mother-headed households, despite the fact

1 that children raised by fathers do better in  
2 20 measured areas compared to children raised  
3 by single moms, including academic progress,  
4 social competence, psychological health and  
5 physical health.

6 Over a hundred thousand children  
7 each year are added to the ranks of fatherless  
8 children, according to the statistics given by  
9 the State Unified Justice System and the  
10 statistics from the National Institutes of  
11 Health; a hundred thousand additional children  
12 are added to the ranks of those who are  
13 fatherless.

14 And if children are affected in  
15 dramatically negative manners, because they  
16 are taken from their fathers or their fathers  
17 are taken from them, then it is almost  
18 unconscionable that we would not address that  
19 system in some assertive fashion.

20 It has been my experience in  
21 Pittsburgh that the women initiate the  
22 majority of family dissolutions. Contrary to  
23 myth, about -- I find it is about 80 percent.  
24 And what the research also shows, and every  
25 case of which I am familiar with, the female

1 initiated the separation and the divorce,  
2 often without warning to the partner. And in  
3 several of the cases, women were involved  
4 sexually with other men prior to, and after,  
5 separation.

6           And one of the biggest complaints  
7 that mother -- or the fathers that I counseled  
8 with say, that the mother obstructs their  
9 custody of their kids, contrary to the  
10 deadbeat dad. And the fathers, as I see it,  
11 are not abandoning their children; my  
12 experience is that they are driven from their  
13 child's home by their mothers or by the courts  
14 who would rather have dad just disappear.

15           And that, in fact, is the most  
16 frequent reason given by fathers for their  
17 disengagement from their children; it was  
18 obstruction of paternal access by the  
19 children's mother and her desire to break  
20 contact between the father and the child.

21           Women are freely admitting to that  
22 obstruction of custody. In one poll, 40  
23 percent of mothers reported that they had  
24 interfered with the noncustodial father's  
25 visitation on at least one occasion and that

1 was to punish the father.

2 I find it deplorable that we force  
3 men to pay child support in the manner that we  
4 do, but we do not give them access to their  
5 children.

6 I was just in contempt of custody  
7 court two weeks ago, and where I had initiated  
8 a petition against mother because I was not  
9 getting informed of the children -- when the  
10 children were in emergency situations. And  
11 the hearing officer said to me, so what if she  
12 is in contempt? So what? What's going to  
13 happen? That, Madam Chairman, members of the  
14 committee, is one of the key factors that  
15 needs to change.

16 Building off what Justice Baer  
17 said, we need to punish contempt of custody in  
18 a similarly effective way that we punish  
19 nonpayment of child support.

20 CHAIRMAN MANDERINO: Mr. Tessaro,  
21 you are eight minutes into your 10 minutes and  
22 you are on page three of 11. So keep in mind  
23 what you want us to hear in the next three  
24 minutes.

25 MR. TESSARO: With all due respect

1 to Justice Baer, I do think that the  
2 high-conflict cases are the cases we need to  
3 address, but I do not think that we can  
4 address them through legislating cooperation.  
5 I don't think that happens.

6 I think we can address the  
7 high-conflict cases by enforcing the orders  
8 that are in place, removing the incentives to  
9 divorce.

10 And in the arena of custody, we  
11 need to remove the incentives of power and  
12 leveraging the children. And we need to  
13 change the venue from a battle arena, where  
14 there are no bounds, to a path with  
15 well-defined boundaries so that the parents  
16 can walk along that path in the best interests  
17 of the children.

18 I think presumptive joint custody  
19 removes the incentives for divorce. It  
20 preserves the constitutionally granted  
21 liberties that the courts recognize.

22 I think presumptive joint custody  
23 also reflects an accepted federal mandate for  
24 presumptive -- of child support, in following  
25 the guidelines.

1                   With the rebuttal presumption, I  
2                   think all of the concerns with the Domestic  
3                   Violence Law can be handled without a problem.  
4                   If there is truly domestic violence at issue,  
5                   that can be rebutted.

6                   And I would also like to say that,  
7                   building off of Justice Baer's comments, that  
8                   if presumptive joint custody isn't going to  
9                   work, then I think if we are going to default  
10                  to primary sole custody, one of the parents,  
11                  the research clearly shows that children do  
12                  better in primary father custody homes than  
13                  they do with primary mother custody homes.

14                  So if we are going to default one  
15                  way or the other, we ought to do it in a  
16                  manner that is backed by the research and has  
17                  empirical evidence behind it.

18                  And I know that is not popular with  
19                  very many people. However, the mothers will  
20                  stay involved with the children; the children  
21                  will have access to their fathers, which we  
22                  know is very important; and conflict has been  
23                  shown to be decreased in father custody homes.

24                  So I would like to offer further  
25                  critiques on 1639. I think that notice is

1 far, far inadequate for move away's. We need  
2 to have much more notice than 30 days. You  
3 can't even get a lawyer in 30 days, and have a  
4 grounds to defend yourself in 30 days. I  
5 think that ought to be 90 days, frankly.

6 So there is other, lots of things  
7 that are in my testimony that I can submit to  
8 the committee.

9 Thank you for your time.

10 CHAIRMAN MANDERINO: Thank you.  
11 And we do have your full written testimony,  
12 and we will have an opportunity to review  
13 that.

14 Mr. Dick.

15 MR. DICK: Yes.

16 CHAIRMAN MANDERINO: Go ahead.

17 MR. DICK: Thank you. To the Chair  
18 and distinguished members of the Judiciary  
19 Subcommittee, I would like to thank you for  
20 the opportunity to testify on the House Bill  
21 463, presumption of joint custody.

22 I represent Fathers 4 Justice, an  
23 organization dedicated to fighting for  
24 equality in family law.

25 For many years our courts have

1 failed to protect the rights of parents in  
2 custody disputes, millions of children across  
3 America have been separated from their fathers  
4 while the family court system wades through a  
5 bunch of red tape, and it just goes on. A  
6 report by Doctor Kirk Johnson shows that there  
7 is actually 37.9 percent of fathers are denied  
8 any visitation at all.

9           You know, why should you! Our  
10 state policymakers care about responsible  
11 fatherhood? Let me give you a few facts.

12           In recent years, researchers have  
13 begun to discover that there are numerous ways  
14 that father absence affects the well-being of  
15 children. In terms of emotional, physical,  
16 financial and social health, children are at  
17 an advantage when they have paternal  
18 involvement.

19           And I do recognize that the  
20 healthiest environment for our children is in  
21 a two-parent household. It is clear that  
22 children who live in single-parent homes face  
23 far more challenges than those children who  
24 live with both parents. However, I think it  
25 is foolish and even dangerous to assume that



1 in cases of divorce, separation or births out  
2 of wedlock, that paternal care be considered  
3 as undesirable as the courts imply it is  
4 today.

5           You know, in fact, fatherless  
6 children are 100 to 200 percent more likely to  
7 have emotional and behavioral problems,  
8 according to the National Center on Health  
9 Statistics.

10           Similarly, fatherless, young adults  
11 are twice as likely to need psychological  
12 help. The statistics concerning crime and  
13 fatherless children can't be ignored.

14           More than 70 percent of all  
15 juveniles in state reform institutions come  
16 from fatherless homes. Fatherless sons are  
17 more than twice as likely to engage in some  
18 type of criminal activity. And fatherless  
19 sons are 300 percent more likely to be  
20 incarcerated in state juvenile facilities.  
21 Seventy-two percent of adolescent murderers  
22 grew up in fatherless homes.

23           Now, researchers using a poll from  
24 both the U.S. and New Zealand found strong  
25 evidence that father-absent homes have an

1 effect on early sexual activity and teenage  
2 pregnancy.

3           Teens without fathers were more  
4 than twice as likely to be involved in early  
5 sexual activity and seven times more likely to  
6 become pregnant as an adolescent. In fact, 71  
7 percent of pregnant teens are from fatherless  
8 homes. And our fatherless daughters are 164  
9 percent more likely to give birth to an  
10 illegitimate child, and 92 percent more likely  
11 to fail in their own marriages.

12           The Department of Health and Human  
13 Services even acknowledged that children from  
14 father-absent homes are twice as likely to  
15 drop out of school.

16           And sadly, a more sobering issue is  
17 the increase in child abuse within fatherless  
18 homes. British data on child abuse and family  
19 structure shows that the rate of serious  
20 violence against children are 14 times higher  
21 in single-mother households. Similarly, the  
22 likelihood of an occurrence of child abuse  
23 resulting in death is nine times higher in  
24 single-mother families.

25           The report can be compared to the

1 U.S. Census Bureau's report of child abuse in  
2 single-family households in 2004.

3 Now, our opponents of House Bill  
4 463, the Domestic Violence Coalition, failed  
5 to inform you of this, the most tragic of  
6 statistics. our children are most vulnerable  
7 and most abused in the single-mother  
8 household.

9 Concerning the topic of domestic  
10 violence, we are very aware of the pandemic.  
11 In the drafting of this legislation, much  
12 thought went into protecting these victims.  
13 This bill contains a three-page list of  
14 unacceptable behavior and activities ranging  
15 from PFAs to murder convictions that would be  
16 exempt from the presumption of joint custody  
17 legislation.

18 We also believe that this bill will  
19 positively affect the outcome of adversarial  
20 parties by forcing both parties to work toward  
21 an amicable resolution, as this bill would  
22 place them both on equal footing.

23 Now, the bar association's  
24 opposition to this bill, I believe it is kind  
25 of financial in nature. You know, it has the

1 best interest of the child to serve or somehow  
2 be compromised. And I previously stated  
3 evidence does show that the best interest of  
4 the child is served by having both parents.  
5 You know, so the only -- You know, I don't see  
6 -- You know, I don't believe that -- And also,  
7 the bar association, it does not speak for the  
8 entire legal profession.

9 And I would like to share a couple  
10 of the letters that I have -- or at least one.

11 To the Members of the General  
12 Assembly of Pennsylvania, I have been in the  
13 practice of law for more than 10 years in the  
14 states of Pennsylvania and Ohio. I strongly  
15 encourage the adoption of House Bill No. 463  
16 as it embodies what is truly in the best  
17 interest of our children. Respectfully,  
18 Joshua D. Lamancusa, Esquire.

19 And I would also like to share with  
20 you a letter of support from the Human  
21 Services Center.

22 It says, To Whom it May Concern, I  
23 am writing in support of House Bill 463. As a  
24 clinical psychologist for over 30 years I am  
25 well aware of the contentious and adversarial

1 atmosphere that often serves as a context in  
2 child custody decisions-making. House Bill  
3 463 serves to formalize the very important  
4 variables in the awarding of custody as well  
5 as delineating visitation conditions. It  
6 clearly specifies the importance of the  
7 child's or children's best interest and  
8 provides a thoughtful and sound framework  
9 within which the courts can act. Sincerely,  
10 Dennis Niebel, Executive Director of the Human  
11 Services Center.

12           Clearly, opponents of this  
13 legislation do not speak for all members of  
14 their profession, and opponents of this  
15 legislation would have you believe that the  
16 family court system is fair and changes are  
17 not necessary. If this were the case, we  
18 wouldn't be here today.

19           Some opposition members believe  
20 that the standard of custody should be  
21 established based on which parent was the  
22 primary caregiver during the marriage or  
23 cohabitation. Now, this argument is moot.

24           Post divorce, all lives are  
25 affected and changes amongst all family

1 members are imminent. Work schedules, normal  
2 daily routines, even housing can and do change  
3 dramatically; the former status quo no longer  
4 applies.

5           The protections that should be  
6 guaranteed is our children's right to expect  
7 the substantial involvement of both parents  
8 within their lives. This bill has the ability  
9 to offer our kids emotional protection,  
10 security and stability.

11           It's just common sense.

12           The system, as presently  
13 structured, invites confrontation. You know,  
14 a judge will listen to two adversaries, mostly  
15 hostile towards each other, and hearing mostly  
16 distorted facts concerning the other parent's  
17 child-rearing abilities. The judge is then  
18 forced to make a parenting decision, in a  
19 matter of hours, about a relationship that was  
20 usually years in the making, many times  
21 without the inclusion of children involved in  
22 the battle.

23           And it does, even the bar had  
24 stated. And then it denied, right denied in a  
25 court order, you know, after a three-day

1 trial, with no, you know, true answer to why.

2 A presumption of joint custody at  
3 the onset of litigation will alleviate the  
4 burden now placed on the judiciary system and  
5 defuse potential aggression that occurs in our  
6 present form of family law.

7 Quite frankly, justice does not  
8 exist. Presently, in family courts, 85  
9 percent of mothers are awarded custody; less  
10 than 10 percent of custody is awarded to the  
11 father. There is nothing equal about these  
12 facts.

13 If we are to ask fathers to step up  
14 to the plate, then it is up to the legislative  
15 body to ensure the tools and scales of balance  
16 exist in order to give these fathers the  
17 opportunity to meet the responsibility of  
18 raising their children.

19 Another reason to support this bill  
20 is because children often want and need to  
21 spend more time with their fathers. Constance  
22 Ahrons, Ph.D., an author of *The Good Divorce*,  
23 and former director of Marriage and Family  
24 Therapy Doctoral Training Program at U.S.C.,  
25 stated that the conclusion was that the vast

1 majority of children wanted more time with  
2 their fathers after their parents stopped  
3 living together.

4           Clearly, the problems relating to  
5 fatherless households are not easy to solve,  
6 but I do believe that we can and should reform  
7 several aspects of the family court system.  
8 There is a critical need not just to protect  
9 the rights of fathers, but also to protect the  
10 best interests of our children who are being  
11 deprived by discriminatory custody awards.

12           Now, I want to end today by quoting  
13 President Barack Obama, a man who understands  
14 the importance of fathers. He made these  
15 remarks in June 19th, 2009.

16           He says, In many ways, I came to  
17 understand the importance of fatherhood  
18 through its absence - both in my life and in  
19 the lives of others. I came to understand  
20 that the hole a man leaves when he abandons  
21 his responsibility to his children is one that  
22 no government can fill. We can do everything  
23 possible to provide good jobs and good schools  
24 and safe streets for our kids, but it will  
25 never be enough to fully make up the



1 difference.

2 That is why we need fathers to step  
3 up, to realize that their job does not end at  
4 conception. That what makes you a man is not  
5 the ability to have a child, but the courage  
6 to raise one.

7 I, for one, am a man willing to  
8 accept the President's challenge. I ask you  
9 to support House Bill 463 so that I and other  
10 fathers like me can exercise the courage it  
11 takes to raise our children.

12 CHAIRMAN MANDERINO: Mr. McCormick,  
13 do you have written testimony? I don't have a  
14 copy of it.

15 It's okay if you don't. I just  
16 want to make sure for the stenographer, if you  
17 only have one copy when you are done, if you  
18 would leave it with the stenographer.

19 MR. McCORMICK: Yes. Are you  
20 addressing Mr. McCormick or Mr. Dick?

21 CHAIRMAN MANDERINO: Oh, I am  
22 sorry, Mr. McCormick. I apologize.

23 MR. McCORMICK: Yes, he --

24 CHAIRMAN MANDERINO: I did not have  
25 any written testimony from you.

1 MR. McCORMICK: I have just left it  
2 with Miss Kornotto. Let me know if it is over  
3 there.

4 CHAIRMAN MANDERINO: Okay. My  
5 staff knows. They are telling me. I just  
6 must have misfiled it. Okay.

7 MR. McCORMICK: Yeah, I just came  
8 up real quick with that.

9 CHAIRMAN MANDERINO: Okay. Very  
10 good. Keep going. Okay.

11 MR. McCORMICK: Very good.

12 Really interesting. Following Mr.  
13 Dick's testimony here and his comments from  
14 President Obama, I was talking to a semi-pro  
15 baseball player, an African American fellow.  
16 And he says, you know, the President urged me  
17 to step up to the plate and raise my children.  
18 So I stepped up to the plate and I got a fast  
19 ball right between the eyes.

20 And that, I think, sums up and  
21 describes what many, particularly fathers, but  
22 many parents who end up being noncustodial or  
23 nonresidential parents experience with respect  
24 to the family court system.

25 And I just want to say, I want to

1 thank you today for holding this hearing and  
2 on what is arguably the most significant issue  
3 facing families today in Pennsylvania, which  
4 is, namely, the state's interaction with the  
5 citizens through the vehicles of the family  
6 law system and social services systems.

7 Today, we are hearing just many,  
8 many different -- from many different  
9 interests. And they are all expressing  
10 concerns that whatever we do and however we do  
11 it, let's do this in the best interests of the  
12 child.

13 So we can come around this idea of  
14 the best interest of the child, but from that  
15 laudable goal, we immediately start to devolve  
16 into what particular special interests think  
17 the best interests of the child represents.

18 And this is a conversation that  
19 goes on at multiple levels. Hillary Clinton,  
20 when asked about the best interests of the  
21 child, basically stated that the best  
22 interests of the child is an empty vessel into  
23 which individuals pour their own prejudices.

24 The American Bar Association, in  
25 2002, actually stated of the best interest

1 standard that it is more of an aspiration than  
2 a standard, because of its vagueness, breadth,  
3 and subjectivities.

4 So there is an ongoing debate about  
5 what is involved with respect to the best  
6 interests -- best interests of the child  
7 standard.

8 But I think it is important for you  
9 as legislators and as lawmakers -- And I  
10 wanted to share with you, I sit on both sides  
11 of the fence. I am giving testimony at this  
12 moment, but we are going to be done very  
13 quickly because I will actually be on your  
14 side of the table, in about 30 minutes, with  
15 respect to a family law hearing where we are  
16 carving out family law in the state of  
17 Illinois right now.

18 I think that it's important to  
19 understand, when the Family Law Section of the  
20 American Bar Association was formed, what the  
21 premise was that under guarded the bar  
22 association. Keep that in mind as we develop  
23 legislation for fragile families and families  
24 going through the courts.

25 And here was the core of the

1 mission statement. The ultimate purpose of  
2 this organization shall be to bring about  
3 improvement in the laws of the several states  
4 relating to marriage and divorce and allied  
5 phases of family life, to the end that the  
6 law, in both philosophy and procedure, may  
7 tend to conserve, not disserve, family life;  
8 that it may be constructive, not destructive,  
9 as to marriage; that it may be helpful, not  
10 harmful, to the individual partners and their  
11 children; that it may be preventive, rather  
12 than punitive as to marriage and family  
13 failure.

14 This was the core of the ABA's  
15 mission statement for the Family Law Section  
16 in 1952. And today, family core, it's very  
17 difficult for the courts to reflect that lofty  
18 ideal. It's very difficult for legislators to  
19 reflect that in statute development.

20 And one of the greatest tragedies  
21 of our family law system today is that we have  
22 literally millions of children in this country  
23 that live within a few short miles or a few  
24 short minutes of their other parent and are,  
25 by court order, only allowed to see the other

1 parent two out of every 14 days, and a couple  
2 of hours during the off week, with some  
3 scattered holidays.

4           The other parent in our society  
5 today is the most underutilized resource with  
6 respect to raising children. That does not  
7 have to be the case. It shouldn't be the  
8 case.

9           And, in fact, you know, it's  
10 amazing to sit here and listen. Thirty plus  
11 states already have a preference for joint  
12 custody written into the statutes; if not, a  
13 presumption for joint custody. The states  
14 that have rejected that are actually in the  
15 minority.

16           What we want to look at here is  
17 look at where we are. This is an area of  
18 evolving law. Fifty years ago, only seven  
19 percent of children in this country actually  
20 grew up outside of an intact, two-parent home,  
21 and that was primarily because of the death of  
22 one of the spouses.

23           Today, in 50 short years, over 40  
24 percent of the children in this country will  
25 spend a significant amount of their childhood

1 absent the involvement of one of their  
2 parents.

3 We have an obligation, as the  
4 leaders in society today, to assure that  
5 children have an ongoing relationship with  
6 both of their parents, even when those parents  
7 do not reside under the same roof.

8 Now, what I wanted to do, at this  
9 particular point, is just guide you back. At  
10 the end of my testimony, I have presented and  
11 made available to you a meta-analysis of the  
12 current research on the importance of  
13 two-parent involvement in child development;  
14 on trends and family law; and on all of the  
15 rationale -- I won't say all, inclusively or  
16 exclusively, but on the rationale for changing  
17 this particular system that basically turns  
18 one parent into a visitor in children's lives.

19 It's not necessary. It is  
20 extremely costly to the society as a whole.

21 And what we understand today, as a  
22 result of the research that has developed over  
23 the last 10 or 15 years, early statute  
24 development around divorce and custody focused  
25 on the bonding and the role of mother and

1 child with respect to child development. Over  
2 the last 15 years, there has been a tremendous  
3 amount of research on the role of father  
4 involvement in child development.

5           What the research shows is that  
6 while the contributions that men and women  
7 make to their child's development are  
8 different, they are no less valuable whether  
9 they are the male contribution or the female  
10 contribution. And to develop a well-rounded  
11 child, typically requires both the father and  
12 mother contribution when raising that child;  
13 not one in excess of the other, but there  
14 needs to be a standard involved.

15           The social science research today  
16 is also pointing out -- And children, let's  
17 listen to the people who are being affected by  
18 this. The surveys that are out today of  
19 adults who experience their -- who experienced  
20 their parents' divorce when they were children  
21 are telling us this. The number one thing  
22 they would have changed about that situation  
23 was to have spent more time with the absent  
24 parent, mother or father.

25           The second thing that they tell us



1 when asked about the living arrangements, the  
2 number one response when given the options of  
3 living arrangements, would have been to have  
4 lived equal time with both parents.

5 We are in a society today where  
6 rather than lifelong monogamy being the norm,  
7 serial monogamy has become the norm. And what  
8 has arisen as a result of that, is that  
9 stability for children is not found in being  
10 in one home at the -- with the other parent  
11 excluded, but stability for children is  
12 represented in the continuity of relationships  
13 that children enjoy with both of their  
14 biological parents.

15 What we should be doing is  
16 maximizing those as opposed to what we have  
17 today, the current system of one parent being  
18 removed from the life of the children or  
19 essentially marginalized and made a visitor.

20 And I see that we are getting close  
21 to the time, and I have got to get on another  
22 call, just on your side of this issue.

23 So I am going leave it with you,  
24 but I would just suggest that you take a real  
25 close look at where the latest social science

1 research is. And if you are interested in  
2 specifics with respect to recommendations on  
3 the statutes, we would be very happy to  
4 provide those to you.

5 Thank you.

6 CHAIRMAN MANDERINO: Thank you.

7 And I do know that we have a  
8 question or two. We have a few minutes for  
9 that. Representative Drucker had a question.

10 But I would remind you to keep your  
11 questions and answers succinct, that I would  
12 like to try to get some in.

13 REPRESENTATIVE DRUCKER: My  
14 question is to Mr. Tessaro and to Mr. Dick.

15 You gave what I consider to be  
16 overwhelming statistics concerning fatherless  
17 custody.

18 MR. DICK: Um-hum.

19 REPRESENTATIVE DRUCKER: Would you  
20 define fatherless? Is that noncustodial,  
21 nonresidential? Or is this a father who is  
22 gone?

23 MR. DICK: Well, that's going to --  
24 That's -- I mean that's some of all. I mean  
25 fatherless are also included with a

1 out-of-the-picture father as well as  
2 noncustodial parent.

3 MR. TESSARO: And to make it -- If  
4 you are referring to my statistics earlier, if  
5 you were to make it very specific, if the  
6 child doesn't see the father on a regular  
7 basis, say every week, and there are no  
8 provisions for that father to see the child,  
9 or he has not seen him for a month or even up  
10 to five years in some studies, then I would  
11 say that child was fatherless.

12 REPRESENTATIVE DRUCKER: Well, I  
13 mean the difference between fatherless, at  
14 least to me, and noncustodial or  
15 nonresidential is a major difference, so.

16 MR. TESSARO: Well, the research  
17 currently shows that for five-sixth of -- I  
18 mean roughly 80 percent of children who are in  
19 sole mother custody or primary mother custody  
20 homes end up being essentially fatherless.  
21 They don't see their father for a significant  
22 period of time. They don't have that  
23 interaction that provides the guidance and the  
24 input that a father needs to provide.

25 REPRESENTATIVE DRUCKER: The other

1 question I had, again, I thought your  
2 statistics had said that when the situation is  
3 reversed, the child raised in the motherless  
4 situation has better a result; am I  
5 interpreting that correctly?

6 MR. TESSARO: My experience with  
7 the fathers in Pittsburgh and as well as the  
8 research that I have read is that fathers tend  
9 to encourage mother involvement much, much  
10 more than mothers encourage father  
11 involvement. And the mothers tend to stick  
12 around more than -- and mainly because the  
13 fathers are encouraging the involvement, yes.

14 MR. McCORMICK: The research shows  
15 us today that the best living arrangements for  
16 children are an intact, two-parent,  
17 low-conflict home. The next best is the  
18 maximum involvement of both parents.

19 REPRESENTATIVE DRUCKER: Give me  
20 the research for that.

21 MR. McCORMICK: Ha-ha. Well, you  
22 know, it is out there. I mean, unfortunately,  
23 sometimes we need social science to affirm  
24 what we tend to already know and suspect.

25 But, it is an intact, two-parent,

1 low-conflict home, a home where both parents  
2 are maximally engaged, regardless of them --  
3 whether or not they are residing under the  
4 same roof, if it is not an intact home.

5 Third, third on the outcome scale  
6 is father primary custody. Now, I want to say  
7 something about that, though. You know, you  
8 have so few fathers with primary custody now  
9 that there are some questions about, is that  
10 as a result of a higher selection rate with  
11 respect to the type of person that is  
12 raising -- a father raising their children on  
13 their own?

14 But regardless, in answer to your  
15 first question, the mitigating effect, the  
16 mitigating effect on the negative outcome of  
17 divorce seems to be realized when both parents  
18 maintain at least 35-percent time with the  
19 children. That's what the research is showing  
20 us. The benefits are newer, up to 50-percent  
21 time.

22 CHAIRMAN MANDERINO: I thank you,  
23 panelists, for your testimony.

24 And I misspoke earlier. We do have  
25 one more short testifier before lunch, Doctor

1 Steven Cohen from the Pennsylvania  
2 Psychological Association; if you want to come  
3 up to the table, Doctor Cohen.

4 While he is doing that, let me just  
5 do a little housekeeping for folks. At the  
6 table to, I guess it is my left, over here is  
7 my staff, Sharon McKee.

8 Would you just raise your hand for  
9 a minute, Sharon?

10 MS. McKEE: (Complies.)

11 CHAIRMAN MANDERINO: Sharon has the  
12 signup list for folks who wanted to take  
13 advantage of the afternoon, five-minute time  
14 slots.

15 And again, I can't promise everyone  
16 that we will get to it. But I will, as I did  
17 this morning, keep everyone to their five  
18 minutes so that we can get to as many people,  
19 who want to testify, as possible.

20 If you didn't have a chance before  
21 you came into the room to signup for that  
22 list, when we have the lunch break--please  
23 don't go now--you can check in with Sharon.

24 And welcome, Doctor Cohen. You are  
25 in order to proceed.

1 MR. COHEN: Thank you.

2 I am Doctor Steven Cohen. And on  
3 behalf of the Pennsylvania Psychological  
4 Association, I want to thank you,  
5 Representative Manderino and the other members  
6 of the committee, for allowing me to present  
7 testimony on these bills dealing with child  
8 custody.

9 The Pennsylvania Psychological  
10 Association has an active child custody  
11 committee that cooperates with family lawyers,  
12 judges and other interested parties in trying  
13 to find effective alternatives to custody  
14 litigation and ways to optimize the benefits  
15 to children when litigation cannot be avoided.

16 In addition, in my own practice, I  
17 spend 70 percent of my week dealing with  
18 custody evaluations, parenting coordination,  
19 co-parenting counseling, and am intimately  
20 aware of the challenges of high-conflict  
21 custody issues in families.

22 I will focus on two issues in the  
23 testimony today dealing with the presumption  
24 of joint custody and court-ordered counseling;  
25 although, we may follow up with more detailed

1 written comments on other issues later.

2                   House Bill 463, Section 5303,  
3 states that, an order for joint custody shall  
4 be awarded by the court unless the court finds  
5 that joint custody is not in the best  
6 interests of the child. There shall be a  
7 rebuttable presumption that an award of joint  
8 custody is in the best interest of the child.  
9 In contrast, House Bill 1639 contains no such  
10 presumption.

11                   The position of the Pennsylvania  
12 Psychological Association is that there should  
13 be no presumption of any particular custody  
14 arrangement. Because of the unique  
15 characteristics of each family, a parenting  
16 arrangement needs to be made that matches the  
17 ability of the parents with developmental  
18 needs of the children to ensure the healthy  
19 growth and adjustment of the children.

20                   It is true that data from several  
21 studies show that many children do well in  
22 shared custody arrangements, and often do  
23 better than children living in sole legal  
24 custody arrangements.

25                   However, these results should not



1 be interpreted to mean that shared custody  
2 arrangements necessarily create better  
3 conditions for all children. Instead,  
4 research has shown that shared custody is most  
5 effective when parents communicate  
6 respectfully with each other, for the welfare  
7 of their children, and when they do not expose  
8 the children to ongoing hostility, conflict or  
9 violence.

10 Most likely it is this ability to  
11 communicate respectfully and the willingness  
12 to shield their children from conflict that  
13 gives judges the confidence to order shared  
14 custody with a particular family.

15 We should not assume that shared  
16 custody necessarily helps make parents better  
17 parents or that it automatically leads to  
18 better adjustment of the children. In fact,  
19 children exposed to ongoing parental conflict  
20 show poorer adjustment in many areas of their  
21 lives, as had been stated by Judge Baer and  
22 others this morning.

23 The court-ordered counseling.  
24 House Bill 1639 states that the courts may  
25 require parents to attend counseling sessions.

1     However, House Bill 463 states, the court  
2     shall require the parents to attend counseling  
3     sessions except where the parents have agreed  
4     to a custody award, in which case counseling  
5     is at the court's discretion and shall, where  
6     the court has ordered counseling, consider the  
7     recommendations of the counselors prior to  
8     awarding sole or joint custody.

9             Children benefit when judges have a  
10     wide range of options to rely upon when making  
11     custody decisions. Depending upon local  
12     resources or the needs of the family, judges  
13     may order mediation, parenting education  
14     courses, co-parent counseling, parenting  
15     coordination, or other services designed to  
16     help parents develop and implement effective  
17     parenting plans.

18             Certainly counseling for one or  
19     both of the parents, or the children, may be  
20     indicated in some cases if the goal is to help  
21     the parents or the child resolve the emotional  
22     turmoil, improve the relationships, or reach  
23     some other treatment goal with the assistance  
24     of a mental health professional.

25             However, we do not believe that

1 counseling always helps where the parties do  
2 not agree on custody. In many cases, those  
3 parties are so intransigent that ordering  
4 counseling would not be productive.

5           Additionally, the wording of the  
6 bill implies that parents who disagree on  
7 custody are acting irrationally. Yet, such  
8 disagreements may be a very rational response  
9 in certain situations, such as an abusive  
10 situation. Therefore, we would not want  
11 counseling to be mandatory in all cases where  
12 parents cannot agree on custody.

13           Furthermore, we do not believe that  
14 judges should require or expect counselors to  
15 testify regarding specific custody  
16 recommendations. Gathering data or making  
17 custody recommendations for the court is a  
18 complex skill that requires considerable  
19 training and expertise. Not all persons who  
20 are competent to provide counseling are  
21 necessarily competent to do the comprehensive  
22 assessment needed to make a custody  
23 recommendation.

24           In addition, the roles of custody  
25 evaluators and counselors are often

1 incompatible. The role of a counselor is to  
2 help the parties in a trusting and  
3 confidential environment.

4           However, custody evaluations, by  
5 their very nature, are not entirely  
6 confidential and their goal is primarily to  
7 provide information to the court; not to  
8 promote the well-being of the individuals  
9 participating in the evaluation. Asking a  
10 counselor to provide custody recommendations  
11 would compromise the quality of the counseling  
12 and risk giving the courts incomplete or  
13 inaccurate information on which to base a  
14 custody decision.

15           I thank you for the opportunity to  
16 present our views on these issues. I know we  
17 have had to cover these complex issues  
18 succinctly, but I am available to answer  
19 questions that you have.

20           CHAIRMAN MANDERINO: Okay. Thank  
21 you very much, Doctor Cohen.

22           We have no questions, but we very  
23 much appreciate your testimony and the  
24 testimony of all of the professionals who  
25 appeared this morning.

1 I am going to shorten our lunch  
2 break a few minutes, and have us back in here,  
3 as scheduled, at 1:30. So we will recess for  
4 lunch. We will be back here at 1:30.

5 For those who are visitors to the  
6 Capitol, there is a cafeteria out this way and  
7 down the escalator, and there are restaurants  
8 over in Strawberry Square, across Walnut  
9 Street.

10 See you all at 1:30.

11 (At 1:00 p.m., recess occurred;  
12 reconvened at 1:35 p.m.)

13 CHAIRMAN MANDERINO: Good  
14 afternoon, everyone, and welcome back.

15 I know a couple of members had to  
16 leave us. I am expecting Representative  
17 Caltagirone back. But I don't want us to get  
18 too far behind schedule, so I am going to  
19 start.

20 And before I call the first  
21 testifier up, let me acknowledge that our  
22 Judiciary Chair, Ron Marsico, has joined us.

23 Welcome, Mr. Chairman.

24 REPRESENTATIVE MARSICO: Thank you  
25 very much. I am glad to be here.

1                   CHAIRMAN MANDERINO: As folks will  
2 recall, this is a time where we have given  
3 individuals, who wanted to submit comments or  
4 testimony for the record, an opportunity to be  
5 heard.

6                   Because we do have -- We have good  
7 and bad news. The good news is that if  
8 everybody cooperates, everyone should be able  
9 to be heard in the time that we have available  
10 to us in this room. The bad news is, if you  
11 don't cooperate, I will literally just cut you  
12 off mid sentence because I do not think it's  
13 fair to not give everybody who wants an  
14 opportunity to be heard to be heard.

15                   So with that, the other  
16 housekeeping matter is, if I do unfortunately  
17 have to cut you off, whether you brought  
18 written testimony -- If you brought written  
19 testimony with you today, you are welcome to  
20 leave it. We also will keep the record open  
21 so that if you have any other comments that  
22 you want to submit, based on what you heard  
23 other people testify about or what you didn't  
24 get an opportunity to say, you are welcome to  
25 submit those comments.

1                   And with that, I want to call to  
2                   the podium first, Mr. Sam Royer.

3                   Mr. Royer, welcome.

4                   MR. ROYER: Hi.

5                   CHAIRMAN MANDERINO: And let me  
6                   just get my little watch ready, like I had for  
7                   everyone else. And when you are ready, you  
8                   can begin.

9                   MR. ROYER: Do you have a copy,  
10                  ma'am?

11                  CHAIRMAN MANDERINO: Go ahead.  
12                  Yes. Thank you.

13                  MR. ROYER: Hello. My name is Sam  
14                  Royer, and I am the father of three children,  
15                  Dylon, Julia and Dakota, from Northampton  
16                  County, Pennsylvania.

17                  I am not represented by a formal  
18                  group. However, I stand in for the young  
19                  children who do not have their rights to have  
20                  both parents involved in their times due to  
21                  our court system today.

22                  Imagine you are the parent of, at a  
23                  tender age of nine, a little boy named Jarred,  
24                  who suddenly collapsed with a heart virus and  
25                  died the next day.

1                   Now imagine Jarred, not having his  
2                   inherent right to be with his parents equally,  
3                   only being able to see one of his parents  
4                   every other weekend, one night a week for  
5                   dinner, for no reason at all.

6                   Imagine you are a seven-year-old  
7                   little boy like my stepson, Dakoda, and on  
8                   November 15th, 2009, my wife, Kelly, and I had  
9                   to tell him that his father, Kris, who was one  
10                  of my coaches, had tragically died in a  
11                  motorcycle accident.

12                  Imagine being Dakoda at the age of  
13                  seven and never seeing his father again, other  
14                  than the limited time the courts would have  
15                  allowed him, if it wasn't for his mom, Kelly.

16                  Luckily for Dakoda, his mother and  
17                  father chose, after three years in the court  
18                  system, to stop and share custody every other  
19                  week. Thank God for Dakoda.

20                  Now imagine you are a fit parent  
21                  with a son named Dylon and have, for over  
22                  seven years, been to court over 25 times,  
23                  spending more than it costs for a four-year  
24                  degree at Lehigh University at \$33,000 a year,  
25                  for one common goal: to be an equal parent



1 with his son's mother so that Dylan can share  
2 in the life not only with his father but also  
3 with his half-sister, Julia, who lives equally  
4 with her mother and I.

5 Julia and Dylan are not from the  
6 same mothers. However, Julia's mom and I have  
7 an equal parenting relationship, only going to  
8 court one time, and that was to get a paper  
9 signed for school.

10 Julia's mother and I served in the  
11 Marine Corps and understand commitment. Not  
12 only did Julia's mother testify at Dylan's  
13 custody trial, stating, Sam is the best father  
14 a child could have, but in addition a  
15 court-ordered psychologist advised the court  
16 that this child will deteriorate over time if  
17 his care stays primarily with the mother.

18 The court did not care. The court  
19 did not even mention the court-ordered  
20 psychologist in its opinion. How is this the  
21 best interest of the child?

22 Imagine you are the head coach of  
23 over 50 five-, six- and seven-year-old's and  
24 over 25 percent of those children are from  
25 single-parent homes. As their head coach, you

1 are trusted to inspire them to be better young  
2 men. However, your own son, like others, are  
3 not present except for every other week, one  
4 night a week, or when the other parent feels  
5 like bringing him.

6 Now imagine all of the above  
7 stories are true. Honorable members, I have  
8 heard many stories like mine and, for that, it  
9 is a tragedy for children and society as a  
10 whole.

11 I understand many people are not in  
12 favor of a presumption of equal custody due to  
13 different reasons. All I can tell you is  
14 this. Seven years ago, if that would have  
15 been the standard, my son would not have gone  
16 through the pain of seeing his parents  
17 disagree on his time with his father and  
18 half-sister, which for no other reason was due  
19 to spite.

20 At no time has anything such as  
21 domestic violence, alcohol or drug abuse,  
22 neglect, or even limited time due to work  
23 constraints been an issue. In fact, if  
24 anything, I am much more able to provide a  
25 flexible relief in the event anything ever

1 happened to my son.

2 With regard to the current way the  
3 system processes these cases, the court  
4 process needs a major overhaul. Parents are  
5 not criminals, unless things like domestic  
6 violence, drug or alcohol abuse or other such  
7 actions are present. The court system should  
8 not treat them as such.

9 In the last seven months, I have  
10 been to court eight times, trying to, number  
11 one, get a court order that would allow my son  
12 to talk with a counselor; number two, switch  
13 one overnight so that I may attend college;  
14 and number three, ask for a parenting  
15 coordinator to be assigned so we do not have  
16 to litigate any more.

17 Out of the eight times, four had a  
18 judge present, in his back room, talking with  
19 the attorneys. Never once was my son's mother  
20 or I asked, why do you want this or why don't  
21 you want this, for my son to go to counseling.  
22 The final time, I went to request the  
23 president judge speak with the parties  
24 directly, and nothing happened.

25 We are now scheduled for a full

1 trial in March, when all a judge had to do  
2 was walk out of the back room and ask the  
3 parties why and make a decision months ago.  
4 Instead, thousands of hours are lost, money is  
5 wasted for attorneys' and the court's time.  
6 Where is the best interest of the child  
7 reflected here?

8                   Honorable representatives, House  
9 Bill 463 and its presumption of joint custody  
10 does not take away a judge's ability to not  
11 award joint custody. Instead, it sets a  
12 standard by which fit parents and children  
13 will have their rights protected against a  
14 legal system which is abused today as it has  
15 been in my son's case.

16                   In every manner, I agree with House  
17 Bill 1639 for its structure and protection  
18 against domestic violence and grandparents'  
19 rights. However, without the presumption in  
20 the verbiage, it still allows for bitter  
21 former spouses and legal systems to make pawns  
22 out of children with litigation that has no  
23 merit. It can prevent people from coming to  
24 court, other than the desire to satisfy their  
25 feelings of spite and hatred for the other

1 parent.

2 I ask that parts of these bills,  
3 referenced above, be combined as one so that  
4 we can help the children of Pennsylvania be  
5 protected against a system that is not in the  
6 child's best interest. The current system  
7 makes a parent work their way up to equal  
8 custody when they should be involved in a  
9 child's life right from the get-go, for and as  
10 long as fit, being the child's mother and  
11 father.

12 Thank you very much.

13 CHAIRMAN MANDERINO: Thank you very  
14 much, Mr. Royer.

15 MR. ROYER: I am sorry I have to  
16 leave. I have to go get my kids now.

17 CHAIRMAN MANDERINO: I was just  
18 getting ready to tell you five minutes, and  
19 then you set your own alarm. Great.

20 MR. ROYER: Thank you very much.

21 CHAIRMAN MANDERINO: Bennett  
22 Vonderheide. Bennett, is he in the room?

23 MR. VONDERHEIDE: I am here.

24 CHAIRMAN MANDERINO: Oh, okay. Go  
25 ahead.

1 MR. VONDERHEIDE: I was waiting for  
2 the road to clear.

3 Good afternoon. I was disappointed  
4 that there were only four members of the panel  
5 at this point.

6 My name is Bennett J. Vonderheide.  
7 I am also known as Daddy Justice, and I am a  
8 filmmaker.

9 I am one of the best-known bad dads  
10 in the state of Pennsylvania. I am so bad,  
11 you took my son away.

12 It took me eight years, \$500,000,  
13 but I got my son back. I got 50-50 shared  
14 legal custody.

15 I am a filmmaker. I didn't start  
16 out being a filmmaker. I was a business owner  
17 all of my life. From 17 years on, I ran my  
18 own businesses, I hired thousands of employees  
19 and started businesses that didn't exist, up  
20 until eight years ago when I was falsely  
21 accused in a PFA enacted.

22 I am the first man in the history  
23 of America who got the ex partner, my  
24 ex-lovely lady friend convicted of perjury.  
25 She has been convicted five times, five

1 charges of false accusations against me.

2 And I am here to tell you that I  
3 started my film because I wanted to have a  
4 record for my son, in the event that, as it  
5 looked at that time, I was never going to see  
6 him again, at any moment.

7 When my son left every time, I  
8 didn't know if I would ever see him again. If  
9 he would have died, they would have buried  
10 him, I would have never known.

11 I started picking up the camera and  
12 I made a record so that when my son would  
13 eventually get old enough, someone would have  
14 something to give him, because I was looking  
15 like I was going to jail. I faced over 20  
16 years in the penitentiaries of Pennsylvania  
17 for trying to be a father. I had faced dozens  
18 of charges.

19 And here is what I can tell you  
20 today. I can pull out the oracle for you. I  
21 can tell you House Bill 463, 263, Jesse  
22 started it. About three years ago, he came to  
23 me with the idea. And I told him, it ain't  
24 going to matter. Because prevalent throughout  
25 the system is such an anti-male bias, you are

1 not going to get anything done on paper.

2 And as we see, when you got close  
3 enough, you have come up with another bill  
4 which is going to do the same thing, and  
5 thwart and dissolve this one.

6 And I will tell you what my film,  
7 well, at some point in time it began to be.  
8 It went from when I thought I would never see  
9 my son again, it went to a point where I  
10 followed the line of what everyone tells you.  
11 People in the system will say, you can appeal  
12 this. You can go to Superior Court. You can  
13 file one of these.

14 Well, I did that; every one of them  
15 on camera. And I followed other people do  
16 them on camera. And I will tell you, finally  
17 I got the first person who told me a straight  
18 answer, and that was Judge Cleland, who is  
19 heading up the Interbranch Commission on  
20 Juvenile Justice.

21 Two days ago he told me, when I  
22 asked him, where can we go, he said, you know  
23 what? I am not sure there is a good place to  
24 go. Because judges can act with impunity and  
25 there is a standard of bias against fathers.



1 I will tell you a couple pieces of  
2 the system. One, it's amazingly ironic, is  
3 the women who run the domestic violence  
4 business, the Coalition Against Domestic  
5 Violence; very good at PR and scamming.

6 As a matter of fact, they brought  
7 two men up here who aren't part of their  
8 organization. Do you know why I know that?  
9 Because 94 percent of their members of the  
10 Pennsylvania Coalition Against Domestic  
11 Violence are female, the other six percent  
12 work in the IT Department. They are not  
13 allowed in any decision-making process.

14 Let me back up and tell you what I  
15 can tell you. You are going to not do 263.  
16 You are going to do your bill, that you pass  
17 it through. And you are going to put all of  
18 these quasi people in the way.

19 And all we tell you is, we don't  
20 need you. We don't need your government. We  
21 are fathers and we want access to our  
22 children.

23 My case demonstrates what I can  
24 tell you about all cases. They start off with  
25 a PFA. And the women, right over here, from

1 the Domestic Violence and the Coalition  
2 Against Domestic Violence, fully funded,  
3 propagate those; and lawyers often tell women  
4 to file them even if there is no case.

5 Then, for the first time since the  
6 days of the Salem Witch Trials, someone can  
7 come, on an ex parte hearing, and they come  
8 and throw you out of your house. You would  
9 have never been able to even defend yourself.

10 They throw you out of your house  
11 with accusations from one person who stands to  
12 gain from the accusations. Then, you can  
13 fight to try to get back into your child's  
14 life. You can file for custody.

15 The first thing they will do is  
16 they will send you to a custody conciliation  
17 conference. One of these quasi things you are  
18 all recommending, a wonderful concept.

19 The custody conference will be held  
20 without record taken. It will be one hour.  
21 There will be no testimony. And the standard  
22 status quo will be applied; that is, that the  
23 man gets 18 percent of the time with his child  
24 and the woman gets 82. It is based on  
25 genitalia when you walk in the room. That's

1 what it is.

2 Now you can start to fight. If you  
3 don't like that, you can start to fight. Now  
4 you are paying for your lawyer for your  
5 domestic violence -- or for accusations of  
6 PFAs, false, fraudulent. As a matter of fact,  
7 80 percent of them are false. These women are  
8 so unscrupulous, they take the real victims of  
9 domestic violence and use them to create  
10 careers for themselves.

11 I've got mine proven. With the  
12 camera, I proved that I was innocent.

13 But, you know, I went back to the  
14 Domestic Violence people, and I said, look,  
15 you have destroyed my life, you helped this  
16 woman do all of these things. Now she has  
17 been convicted, I want your services. And  
18 they said, we'll arrest you if you don't  
19 leave.

20 I say to these women -- And when  
21 she walked out, I asked her, I said, if a man  
22 is falsely accused of a PFA and he is thrown  
23 out of his house and he loses access to his  
24 children, isn't that abuse, and aren't you  
25 perpetrating it?

1                   Let me just sum up. You are not  
2 going to give me time to say what I need to  
3 say, but I will sum this up.

4                   We are going to make a record of  
5 what you are doing here. And I will tell you  
6 of interest, you should note everyone here who  
7 speaks against equal access for fathers. And  
8 how can that be, in today's day, that someone  
9 could come in and say, could you say that  
10 minorities shouldn't have equal access to  
11 their child, would you say a woman should have  
12 less than equal of anything? Of course not.  
13 But we are such a state, that you can actually  
14 have hearings.

15                   And I say to you, interestingly,  
16 the people here who all said money is the  
17 answer are paid by our tax dollars. They  
18 found a way to make a living off of this.  
19 They are rapparees in this industry, and the  
20 industry is benefiting them.

21                   More money, more quasi-legal  
22 agencies in the way? No, fathers have a right  
23 to their children, period. Get out of our  
24 way. We don't need your litigations. We  
25 don't need your legislation; equal access.

1                   And if not, how in God's name, in  
2                   2010, can you say that our group, men, don't  
3                   have an equal right to their children?

4                   Thank you very little.

5                   CHAIRMAN MANDERINO: Thank you very  
6                   much, Mr. Vonderheide.

7                   Romedia (phonetic), tell me if I am  
8                   not doing this right. Romilda, I am sorry.  
9                   Romilda Crocamo.

10                  MS. CROCAMO: Very good.

11                  CHAIRMAN MANDERINO: Thank you.  
12                  Sorry. Ms. Crocamo, you are in order and you  
13                  may proceed.

14                  MS. CROCAMO: Good afternoon, Madam  
15                  Chair, members of the House of Representative  
16                  Judiciary Committee. Thank you for this  
17                  opportunity to speak with you about this most  
18                  important issue, the pending custody  
19                  litigation.

20                  This is such a beautiful building.  
21                  And every time I walk in here, whether it is  
22                  for an argument before the Superior Court or  
23                  today, I always look above to the Rotunda, to  
24                  the ceiling, to see what inspiring words are  
25                  written. And I say to you, be the seed.

1                   My name is Romilda Crocamo. I have  
2                   been practicing law for approximately 20  
3                   years. I practice in the private sector in  
4                   the areas of personal injury, intellectual  
5                   property and commercial litigation.

6                   For the past six years, I have  
7                   worked at the Barbara J. Hart Justice Center  
8                   in Scranton, Pennsylvania, as a lawyer. I am  
9                   no longer employed there.

10                  Today, I represent no organization  
11                  or coalition or cause. I am here today as a  
12                  lawyer who has represented and now represents  
13                  both mothers and fathers in custody  
14                  litigation, and I am here today as an adult  
15                  who witnessed violence in my home as a child.

16                  I loved my father, who died when I  
17                  was 15 years old. He would take me to  
18                  softball games and basketball games, and he  
19                  would help me with my homework. I miss  
20                  talking to him, as I might be able to talk to  
21                  him as an adult.

22                  Let me tell you about my mother.  
23                  She is 81 years old and she lives with me, or  
24                  should I say I live with her. She is  
25                  creative, caring, and takes very good care of

1 me and my dog and two cats.

2 My father would hit my mother, not  
3 every day, maybe not every month, but he would  
4 hit her. Until this day, I have a vivid  
5 recollection of him, on top of her, grabbing  
6 the bottom of her chin and slamming her head  
7 against the back of our sofa.

8 And I remember trying to separate  
9 them, my older sister also tried to do the  
10 same. I was seven and she was 12. My father  
11 never hit me.

12 I can't tell you why they were  
13 fighting, what started the fight. What I can  
14 tell you is that my mother didn't deserve it  
15 and neither did I. And if my father were  
16 alive today, I would tell him, dad, I love  
17 you, but you were wrong. He was wrong to hit  
18 her whether I was in the room or not. He was  
19 wrong to hit her in front of me and my sister.

20 Please don't blame my mother and  
21 think she should have left. She stayed for  
22 very good reasons. She loved my father. She  
23 didn't want the abuse, but she wanted our  
24 family to stay together.

25 My parents remained married until

1 my father's death. But I can tell you that if  
2 the legislation changes the existing custody  
3 statute, those incidents that I recall and the  
4 one that I relay to you would be minimalized  
5 and trivialized, if heard at all.

6 I am not sure that the proposed  
7 legislation would have been in my best  
8 interest because it would not have allowed the  
9 judge that hears the case to hear the complex  
10 dynamics of my family.

11 I agree with Justice Baer, the  
12 existing statute encompasses all the  
13 amendments; what needs to be changed is the  
14 process and the procedure.

15 Mr. Royer needs his day in court.  
16 Judges must adjudicate. In cases involving  
17 domestic violence, there needs to be a judge  
18 that hears the testimony, makes credibility  
19 determinations; not a psychologist, not a  
20 guardian ad litem and not a parent  
21 coordinator.

22 Not all cases need to be litigated,  
23 some cases can be mediated, but when there are  
24 allegations of domestic violence, I ask that  
25 if you are going to change the statute, keep



1 the language that's in the existing statute as  
2 it speaks to the issue of abuse.

3 Thank you.

4 CHAIRMAN MANDERINO: Thank you very  
5 much. I appreciate it.

6 Next we have Vicky Rebar.

7 Vicky, do you want to make your way  
8 up?

9 MS. REBAR: Good afternoon. I  
10 appreciate being here. And my story is really  
11 more like that of the good dads here.

12 My name is Vicky Rebar and I am a  
13 mom and I have no serious problems like drugs  
14 or drinking or any of that stuff. In fact, I  
15 am both a Ph.D. engineer and a Pennsylvania  
16 certified teacher, and had to pass several  
17 criminal and abuse checks for that.

18 Since my recommendations, which are  
19 actually quite specific, directly result from  
20 my real-life experience with custody, I  
21 include some history of my case so you better  
22 understand why I say what I say.

23 I begin each issue with an  
24 unanswered question, one that really wakes me  
25 repeatedly at night, and I know very well. I

1 tell why and then give my recommendation.  
2 This is the best that I can do, given the  
3 exhausting 2.5 year duration of my case, which  
4 is not over yet.

5 Question number one. Why do the  
6 local women services and the attorney on their  
7 recommended list act as if getting a PFA from  
8 my broken bone and custody of my children was  
9 a no-brainer situation? Why didn't someone  
10 there tell me that some judges might not grant  
11 a PFA for this level of injury and instead  
12 allow the perpetrator to have complete  
13 physical custody?

14 The latter is indeed what happened  
15 to me, and my misinformed, misguided attempt  
16 to get a PFA for a broken bone is  
17 unambiguously the root cause of why my custody  
18 case is so bad that I am here today.

19 Thus, my first recommendation  
20 regarding custody in Pennsylvania. If a PFA  
21 is involved somewhere in the custody  
22 situation, as part of the application  
23 procedure, please have or pass on the statute  
24 that people should be fully informed of the  
25 potential outcomes of a PFA action, in detail,

1 including that sole physical custody can be  
2 given to the other party; provide detailed  
3 data and statistics on PFA outcomes in the  
4 county in comparison to the rest of the state;  
5 and have the person sign off that he or she  
6 reviewed them.

7           If I had had numbers and knew then  
8 what I know now, this would not have been the  
9 right action for my injury, and I believe that  
10 my custody situation would not have become as  
11 bad and as expensive, tens of thousands of  
12 dollars, as it is today.

13           This is particularly embarrassing  
14 because as an engineer, I am fundamentally a  
15 numbers person and should ask these questions,  
16 but my common sense to request this  
17 information and hard data shut down given the  
18 stress. It is simply not fair that one is not  
19 fully informed in detail about custodies and  
20 PFAs and how you can be cut off trying to get  
21 a PFA.

22           Question number two. Why do the  
23 courts keep ordering counseling for alienation  
24 of the children against a parent, me, time  
25 after time, when it is clear that counseling

1 does not work? Why don't they just  
2 immediately remove children from the  
3 alienating situation?

4           After the other parent was given  
5 sole physical custody, the children  
6 demonstrated signs of alienation towards me.  
7 A counselor testified to this, yet they  
8 remained with that parent. A parent  
9 coordinator was ordered, and all she did was  
10 set up more counseling that accomplished  
11 nothing and made things worse. Then she was  
12 gone and yet another counselor started, with  
13 no progress.

14           Thus, my second recommendation to  
15 improve custody in Pennsylvania. When it is  
16 clear that children have been alienated  
17 against a parent, please remove them and place  
18 them with the other parent.

19           Counseling--I am sorry to any  
20 counselors here--is a joke, providing income  
21 but dragging the case on and on for  
22 two-and-a-half years now.

23           I believe that we need to have  
24 strong punishments for parents under whose  
25 care children become alienated when there

1 previously was no alienation, as with me. As  
2 far as I am concerned, nothing else will work,  
3 based on what I have experienced.

4 And finally, question number three.  
5 I know I am getting low on time. Why can't  
6 events early in my case be re-evaluated upon  
7 finding out that the attorney did not handle  
8 them right?

9 I have sought extensive feedback  
10 from many qualified people and have discovered  
11 that many of the attorneys I used made  
12 mistakes. I did not know at the time that  
13 they made mistakes, because I am not an  
14 attorney, and relied upon them doing the right  
15 thing.

16 When I inquire how to revisit the  
17 earlier events, I am told it is not possible.  
18 This is difficult to accept, as I paid  
19 considerable tens of thousands of dollars for  
20 the person to do the job right.

21 Thus, my third recommendation and  
22 final. There needs to be some type of  
23 procedure for re-evaluation of an entire case  
24 if there are mistakes, especially in a custody  
25 case and with huge costs.

1                   Better yet, we can avoid all of  
2                   this, all of my suggestions, everything, just  
3                   by having a presumptive, 50-50, physical  
4                   custody statute in the event of parental  
5                   separation--unless there is a legal reason for  
6                   deviation, such as abuse--which to me is the  
7                   most effective recommendation of all.

8                   Thank you very much.

9                   CHAIRMAN MANDERINO: Thank you very  
10                  much. Right on your five minutes, Ms. Rebar.  
11                  Thank you.

12                  Molly Callahan.

13                  MS. CALLAHAN: Good afternoon. I  
14                  am Molly Callahan, Legal Center Director at  
15                  Women Against Abuse in Philadelphia.

16                  The Legal Center assists  
17                  approximately 6,000 victims of domestic  
18                  violence through court advocacy, telephone  
19                  counseling and attorney representation each  
20                  year. Women Against Abuse attorneys represent  
21                  victims in protection from abuse, custody and  
22                  support cases.

23                  Each day, attorneys and advocates  
24                  see the impact that domestic violence has on  
25                  victims and their children. We see firsthand

1 the long-term effects of violence on children,  
2 and we see the difference that judicial  
3 intervention can make in breaking that cycle  
4 of violence.

5 We were grateful for your work on  
6 strengthening the custody statute, and  
7 appreciate this opportunity to present  
8 testimony.

9 Women Against Abuse strongly  
10 opposes a presumption of joint custody. Joint  
11 custody is dangerous and harmful in cases  
12 where domestic violence is present.

13 Decisions about child custody are  
14 among the most important decisions that a  
15 court can make. These decisions affect the  
16 daily life of the child and have far-reaching  
17 impact on his or her long-term well-being.

18 Given the consequences of such  
19 decisions, it is vital that the courts are  
20 provided flexibility and time to make the best  
21 possible decision in each and every case.

22 A presumption of joint custody  
23 would stifle a court's ability to make the  
24 best decision in each case. Presumptions  
25 encourage and in fact pressure judges to order

1 joint custody without carefully considering  
2 the individual case before them.

3 In Pennsylvania, the current  
4 custody statute requires judges to make a  
5 searching inquiry into the best interest of  
6 the child and to do so without any  
7 preconceived ideas. This allows judges to  
8 order joint custody if it is appropriate, but  
9 first requires judges to examine all of the  
10 evidence without a bias in favor of one type  
11 of custody arrangement.

12 Existing custody law recognizes  
13 that joint custody is appropriate only when  
14 parents are able to cooperate and communicate.  
15 Both current case law and national experts  
16 recognize that joint custody is not  
17 appropriate in certain situations such as  
18 domestic violence cases.

19 For joint custody, our parents have  
20 to be able to communicate and cooperate. When  
21 there is domestic violence, the abusive  
22 party's behavior has made it impossible to  
23 communicate or cooperate. The abuser does not  
24 allow the victim to express opinions and  
25 prevents any communication. The abuser



1 refuses to cooperate and will use any decision  
2 as an excuse to continue to control and harass  
3 the victim, even to the detriment of the  
4 child.

5 In our work, we have seen how joint  
6 custody exacerbates tension and leads to both  
7 parties frequently asking for judicial  
8 intervention. Each time the parties return to  
9 court adds uncertainty and stress to the  
10 child.

11 We have also seen that joint  
12 custody creates danger and turmoil in domestic  
13 violence cases. Joint custody requires  
14 frequent continuing contact, and this allows  
15 abusers to use the custody arrangement to  
16 continue to abuse and harass the victim.

17 Even when a protection from abuse  
18 order is in effect, abusers are often able to  
19 continue to have contact with the victim  
20 through the custody exchanges, and joint  
21 custody increases this contact and makes it  
22 more difficult to prove when a violation of  
23 the PFA has occurred.

24 All too often, our clients are  
25 assaulted at custody exchanges. Abusers are

1 physically violent at the pickup and drop-off  
2 points. The children themselves become  
3 targets of abuse or may get hurt while  
4 attempting to protect the non-abusive parent.

5 Even if they are not physically  
6 injured, they will certainly witness the  
7 abuse, and the children are profoundly  
8 affected by experiencing or witnessing  
9 domestic violence.

10 Research shows that children who  
11 are exposed to violence in their homes are  
12 more likely to struggle with depression,  
13 exhibit anger and aggressive tendencies, and  
14 to suffer from post-traumatic stress disorder.

15 Finally, an exception for domestic  
16 violence cases will not work. Only a  
17 relatively small number of families turn to  
18 the court to decide custody arrangements;  
19 about 80 percent of parents are able to work  
20 through custody issues on their own.

21 The cases which need judicial  
22 intervention are the cases in which the  
23 parents are the least able to work together.  
24 And in those small number of families who use  
25 the court to decide custody, domestic violence

1 is a major factor in between 50 to 75 percent  
2 of those cases.

3 The cases that end up in front of a  
4 judge, where the presumption would now apply,  
5 are the cases in which the parents are least  
6 able to work together; the cases which, by  
7 definition, are not suitable for joint  
8 custody.

9 I will briefly turn my attention to  
10 House Bill 1639, which we --

11 CHAIRMAN MANDERINO: One minute.

12 MS. CALLAHAN: -- in the whole,  
13 support. This bill does retain the best  
14 interests of the child standard. It also  
15 expands the current law from three specific  
16 factors that courts must consider to 16  
17 factors. And these 16 factors are not  
18 prioritized, they are weighted in any way.

19 We would ask that we look into ways  
20 to make sure that domestic violence is heavily  
21 weighted in any custody decision. We know  
22 that this has -- domestic violence has  
23 long-lasting effects on children, and so we  
24 have to make sure that in each custody  
25 decision judges are looking at that.

1                   Secondly, House Bill 1639 limits  
2                   the definition of abuse to that found in the  
3                   PFA Act. We would ask that courts also  
4                   consider emotional and mental abuse in custody  
5                   cases. This type of abuse, whether directed  
6                   at the child or the other parent, have  
7                   long-lasting effects.

8                   Finally, we do think the  
9                   approximation rule makes sense. And we would  
10                  urge the legislators to retain Section 5303  
11                  which requires experts in certain enumerated  
12                  offenses.

13                  Thank you.

14                  CHAIRMAN MANDERINO: Thank you very  
15                  much.

16                  Next we have Jesse Storm.

17                  MR. STORM: Hi. My name is Jesse  
18                  Storm.

19                  In front of you is a file of quite  
20                  a bit of information. As you flip through it,  
21                  it kind of relates to some of the numbers that  
22                  were talked about earlier today and statistics  
23                  that you heard from some of the other  
24                  organizations.

25                  One of the first things that I

1 would like to start out with in the brochure,  
2 you will find--in this packet of papers--you  
3 will find that there are a multitude of  
4 counties that have taken the time to review  
5 House Bill 463 and recommend orders from  
6 different counties, such as Lancaster County,  
7 from York County, from Dauphin County, Erie  
8 County, where we had sent the bills, as an  
9 organization, out to these different counties  
10 and asked them to review it and see what they  
11 felt, how the bill weighted in their county.

12           These recommendations from these  
13 counties were sent back unanimously, stating  
14 that they voted on this at their commissions'  
15 hearings. And in Erie County, they actually  
16 have a County Council where seven persons  
17 voted on it, that would like to see this bill  
18 passed as it is or with very similar language  
19 for House Bill 463.

20           We spoke with the Governor of  
21 Pennsylvania, a little while back when House  
22 Bill 463 had first come out in a prior  
23 session, and then followed up with him while  
24 he was in Lancaster County stumping for  
25 Hillary Clinton.

1                   And with that conversation on  
2 camera, he stated that if House Bill 463 would  
3 come out of the House and the Senate with  
4 similar language and hit his desk before he  
5 leaves office, he would sign the bill.

6 Therefore, I believe that we have a multitude  
7 of other individuals who are in support of the  
8 House Bill.

9                   Also in this packet of papers, you  
10 will find a lengthy letter that I have tried  
11 to shorten as long as -- as short as possible  
12 in regards to my life, and the letter kind of  
13 parlays back to my childhood.

14                   I grew up in a broken family. I  
15 thought it was just my family. I lived with  
16 my mother. My father was accused of being an  
17 abuser, an alcoholic, and all kinds of things  
18 throughout my life growing up.

19                   When my father would come to visit  
20 me, mother's boyfriends would beat the snot  
21 out of him. Outside, police would come and  
22 arrest him, accuse him of starting the fight.

23                   During my childhood, I had a  
24 fractured skull. I was choked to the point  
25 that I had blacked out, from one of my

1 mother's paramours.

2                   And as I grew up, if you walked in  
3 the house and you weren't dressed properly, my  
4 mother would just hit you in the face, start  
5 swinging you around and beating on you until  
6 you bled. And many, many nights I lay just  
7 wishing that I could be with my father because  
8 it couldn't be half as bad with my father as  
9 it was living with my mother and her multitude  
10 of boyfriends.

11                   Over that 17 years that I grew up  
12 with my mother, we moved 14 times, changed  
13 schools nine times, changed counties; all the  
14 while from one parent -- from one boyfriend to  
15 another, with abuse, my mother abusing me. We  
16 lived in a trailer with no running water; that  
17 had no bathrooms, you went in a pot and took  
18 it outside and dumped it; no electricity.

19                   Children and Youth took me from my  
20 mother twice through that time period. After  
21 being removed for a brief stay, they returned  
22 me, and said, now, everything is good.

23                   I was always afraid to say anything  
24 to anyone about the abuse going on at home,  
25 from my mother, from her boyfriends, until one

1 day in middle school when we had to do a  
2 yearly or some kind of a check where they  
3 checked your eyes and muscles and stuff, and  
4 they realized that I had bruises that were  
5 above my neck.

6 And they asked me to take my shirt  
7 off and they seen that the bruises went from  
8 my neck down to my backside. So then they  
9 called Children and Youth, and had had me  
10 remove all of my clothes to find that there  
11 were bruises from the top of my neck to the  
12 bottom of my heels from being beat.

13 They removed me at that point in  
14 time for two months and turned me back over to  
15 my mom. My father couldn't afford to fight in  
16 court for custody. He had already at that  
17 point in time lost four jobs.

18 When I was four years old, my mom  
19 and dad separated. He was a general  
20 contractor, ran his own business. And because  
21 of the wintertime, lack of work, he was  
22 arrested for nonsupport.

23 So most of my childhood, my father  
24 spent in jail. He would get out of jail in  
25 the wintertime, was a general contractor,



1 would try and find work to meet the  
2 obligations set by the system and was  
3 ultimately returned to jail.

4 And I would like to briefly just  
5 state one of the other facts, real quick, that  
6 was mentioned earlier.

7 In the U.S. Census, and this is in  
8 your packets, mothers account for a majority  
9 of custodial parents 82.6 percent of the time  
10 while 17.4 percent fathers. The question  
11 there is, are our parents in Pennsylvania that  
12 bad that fathers aren't closer to 50 percent?  
13 What is going on with our society that it is  
14 not a 48-52 split. Women burnt bras, people  
15 burnt books for lesser things than to raise  
16 their children.

17 Think of the abuse that a parent  
18 goes through when a child untimely dies  
19 because of a car accident. They go through  
20 those same emotional tasks when they lose  
21 their child and they have no ability to spend  
22 time with them, but they are still alive when  
23 they are taken from them for no legal reason.

24 So we, as Pennsylvania Families  
25 Association, support House Bill 463 as it is.

1 People are concerned about the abuse and legal  
2 reasons. House Bill 463 starts you out with  
3 presumptive joint custody, and if there is a  
4 reason for legal deviation, for child abuse,  
5 child neglect, sexual assault, it is allocated  
6 in there for those protections.

7 Thank you very much for your time.

8 CHAIRMAN MANDERINO: Thank you, Mr.  
9 Storm.

10 And next we have Jesse Baker. Mr.  
11 Baker.

12 MR. BAKER: Hello. I am glad to be  
13 here and to get to speak my mind. It has been  
14 10 years that I have been fighting for my  
15 child and through the divorce situation.

16 I don't think there is one father's  
17 rights group or any organization that would  
18 deny that if a woman or a male was abused, and  
19 it was a true abuse, that there should not be  
20 some type of protection.

21 But what I am against is that PFAs,  
22 when they are stated, there is no weight to  
23 them, okay? You can look at somebody wrong  
24 and they felt threatened and then they go get  
25 a PFA.

1                   And that has detrimental effect in  
2                   your ability to parent your child. You get  
3                   separated from your child and you cannot even  
4                   communicate to the opposing party because of a  
5                   protection from abuse. You can't go through a  
6                   minister. You can't talk, any way, to that  
7                   other party. So it perpetuates and creates a  
8                   high-conflict situation, because you love your  
9                   child, you want to take care of your child and  
10                  you want to protect your child.

11                  And, unfortunately, in my  
12                  situation, my child is being used as a  
13                  football to stack the deck against me in  
14                  litigation process. And when you have an  
15                  unscrupulous lawyer who doesn't have any  
16                  qualms about making false allegations in front  
17                  of the judge, when I had my lawyer say, how  
18                  can he say these things without any proof?  
19                  And my lawyer says to me, they can say  
20                  anything they want when they are talking to  
21                  the judge. They don't have to have any proof.

22                  To me, that's wrong. When we are  
23                  in front of a judge, we are seeking justice  
24                  and equality.

25                  But what I have experienced is that

1     there is no equality in the law. Right now  
2     what happens in the majority of cases is that  
3     women get given primary custody.

4                     I want to be able to be a full-time  
5     father to my child and impart my values to him  
6     and right now I am being excluded from that.

7                     CHAIRMAN MANDERINO: Thank you.  
8     Thank you very much.

9                     Darrin Weber. Mr. Weber.

10                    MR. WEBER: Hello. My name is  
11     Darrin Weber. I want to thank you for  
12     providing this opportunity to share some ideas  
13     and thoughts.

14                    It's clear to me that child custody  
15     laws are in desperate need of change. I have  
16     lived and experienced the huge emotional and  
17     financial toll and turmoil that is caused by  
18     going through the legal system today with the  
19     laws for custody.

20                    My motivation today to speak is not  
21     driven by a desire to change my situation  
22     today, but for the future parents and kids  
23     that are ultimately going to have to go  
24     through the current custody system as it  
25     exists today.

1 I am finally at a liveable custody  
2 situation after having been tormented  
3 emotionally for nearly three years and  
4 spending tens of thousands of dollars just for  
5 trying to be the same involved father that I  
6 was beforehand.

7 It's true that it's the parents  
8 that ultimately bring their custody disputes  
9 into the court system. However, I believe it  
10 is the outdated laws which leave the room for  
11 diverse interpretation and personal bias,  
12 along with strong motivators which often drive  
13 one of the parents into the court system.

14 I was first thrust into a custody  
15 situation at separation, and I was shocked at  
16 what I learned. Even though I was involved in  
17 all aspects of the kids' lives since birth,  
18 and I worked for an employer that embraced  
19 flexible working schedules, I had little  
20 chance of a shared custody arrangement simply  
21 because the kids' mom was a stay at home mom  
22 and that shared custody arrangements were not  
23 favored in my area.

24 I still recall to this day how  
25 upset and angry I was at being told that the

1 most likely outcome would be the every other  
2 weekend, possibly a dinner visit during the  
3 week. In nearly every situation, kids need  
4 both parents in their lives. I don't think  
5 anyone here believes that the every other  
6 weekend suffices.

7 Today's custody laws where custody  
8 and support are tied at the hip drive some to  
9 take custody decisions into the legal system  
10 where the parents become adversaries.

11 My experience exemplifies this. I  
12 believe the prospect of additional support  
13 money, of having physical custody greater than  
14 60 percent of the time, was the major driving  
15 force for the kids' mother to push our ongoing  
16 custody differences through the system.

17 I truly think that establishing the  
18 presumption of joint custody that is both from  
19 the physical and legal side will go a long way  
20 to keeping custody differences out of the  
21 court system.

22 Further, disconnecting custody from  
23 child support will all but eliminate the  
24 motivation for most to push into the legal  
25 system in the first place. In my case, like

1 many others, I may have avoided multiple years  
2 of financial and emotional despair by  
3 disconnecting custody and child support.

4           At one point, I had reached a  
5 liveable custody arrangement and took the time  
6 to dot all the I's, cross all the T's. Then I  
7 learned that even a well-defined custody  
8 order--of which mine, it totals over 16  
9 pages--its enforceability is minimal at best,  
10 because contempt for custody is taken so very  
11 lightly. You know, laws and the changes that  
12 are proposed today, I think will invigorate  
13 the same seriousness and consequences of  
14 following custody orders that they would of  
15 any other order of court.

16           Once the dust had finally settled  
17 on my liveable custody arrangement, a short  
18 year-and-a-half later I was thrust into  
19 another facet of the custody system when I  
20 discovered the kids' mother had a clandestine  
21 plan to relocate with the children with her  
22 new husband.

23           Her desire was to remove the kids  
24 from an area where they grew up in, where we  
25 had an extensive network of family on both

1 sides, and where they had nearly daily  
2 involvement with myself.

3            Luckily, in my situation, the  
4 reasons for relocation were so weak and  
5 unsubstantiated that the move was ultimately  
6 denied, but, once again, not without  
7 significant expense and emotional distress.

8            Further, I would like to propose  
9 consequences for those parents that keep  
10 relocation plans secret or move without  
11 permission and then push relocation cases  
12 without merit. In fact, I think in some  
13 cases, relocation, when it is denied, counsel  
14 fees should be awarded as further detriment.

15            I can't help but feel that my  
16 personal experiences are like so many others,  
17 and I want to reiterate my strong support for  
18 the changes proposed by the bills being  
19 discussed today.

20            The current custody laws are in  
21 desperate need for changes to remove personal  
22 interpretations and bias that are so  
23 prevalent, and to eliminate key motivators  
24 that drive some parents into the custody  
25 system in the first place.



1                   So once again, I want to sincerely  
2                   thank you for the time for sharing my  
3                   experiences and remarks, and urge action in  
4                   reforming the existing custody laws.

5                   Thank you.

6                   CHAIRMAN MANDERINO: Thank you.  
7                   Thank you, Mr. Weber.

8                   Harry Hamilton is next.

9                   MR. HAMILTON: Madam Chairperson,  
10                  members, thank you for having me. I have  
11                  prepared remarks, and I would like to leave  
12                  them with you, as you had indicated.

13                  I too come here full of passion, so  
14                  much so that I have to depart from my prepared  
15                  remarks and hope that they will become part of  
16                  the record for you to review.

17                  Because of many of the things that  
18                  I have heard here today, we are all here to do  
19                  better because the culture of custody must  
20                  change. We know that.

21                  I have heard the fathers. I have  
22                  heard the passions. I am going to ask you to  
23                  please hear all of those pleas.

24                  In all due respects to Justice Baer  
25                  when he testified, and the other people who

1 have testified against the presumption, not  
2 only must we change the culture of custody,  
3 but we must change the culture of our courts.

4 I wish Representative Baker was  
5 here to hear the fact that, yes, possibly a  
6 constitutional amendment; definitely  
7 legislation is needed to right the imbalance  
8 that exists within our courts, to have a  
9 statute that starts us off with a balance.

10 You have heard the statistics, some  
11 of them horrifying, with regard to involving  
12 fathers in the life.

13 In all due respects, to those who  
14 push back against the presumption for joint  
15 custody--the presumption to allow fathers to  
16 have equal access to their children--you are  
17 not going to hear testimony from an individual  
18 about, we had a joint custody arrangement or  
19 we were able to work out shared time with our  
20 children and as a result domestic violence  
21 increased. You will hear from the groups  
22 about domestic violence with conclusory  
23 statements. You will hear about the one case  
24 or the one state where the presumption is not  
25 working.

1                   But you have also heard about 30  
2                   other states where the presumption is in  
3                   place. Please join that. So that, even  
4                   though 1639, which is needed to change the  
5                   culture of custody, to change the culture of  
6                   our courts, is very comprehensive, I do firmly  
7                   believe that it is more of the same or it is  
8                   going to be more of the same if you don't  
9                   start with the presumption.

10                   What we are doing is realizing that  
11                   it's a presumption, a rebuttable presumption.  
12                   It catches it, acts as a safety net for those  
13                   families where there is no evidence of abuse,  
14                   where there is no evidence of escalating  
15                   conflict.

16                   It acts as a safety net to have  
17                   that presumption. It trusts the judges to  
18                   realize that when there is evidence of  
19                   domestic violence, the presumption erases. To  
20                   address that, put that in the presumptive  
21                   joint custody thing, that once there is  
22                   evidence of domestic violence, there is no  
23                   longer presumption; we are right back to where  
24                   we were.

25                   I have a background. For 30 years,

1 I stood as a role model for children all over  
2 the place: nine years in the NFL; 16-year  
3 legal career, most of it as a Judge Advocate  
4 for the Army. I stand and I am welcomed to be  
5 a role model for children all over the place;  
6 yet for my own son, my time is severely  
7 limited.

8 He is entitled to time with me so  
9 that he may develop the values and the lessons  
10 that I learned from my dad, who 40 years ago  
11 had to fight through the presumption that it  
12 goes to the mother.

13 I will say in closing that the two  
14 sons of my father's that were raised with my  
15 mother, referring to earlier comments, they  
16 cannot even now be depended upon by our  
17 mother, who turns to me and my brother who was  
18 raised by a father who provided an example and  
19 an illustration of what manhood was about.

20 As a final statement, I will just  
21 say, to guide you with regard to the  
22 presumption for joint custody, I will quote  
23 Judge Grimm, who was appointed by the Supreme  
24 Court and testified before the Interbranch  
25 Commission. Follow your heart and you won't

1 make a wrong choice.

2 Thank you.

3 CHAIRMAN MANDERINO: Thank you, Mr.  
4 Hamilton.

5 Next we have Gordon Kecki -- I am  
6 sorry, Gordon Keckeissen. If I am saying that  
7 wrong, you will have to correct me when you  
8 get up here.

9 MR. KECKEISSEN: No, that's fine.  
10 With a name like mine, I am not very sensitive  
11 about it.

12 CHAIRMAN MANDERINO: While you are  
13 coming to the table, I also want to recognize  
14 that we have been joined, somewhere in the  
15 room, by Representative Cohen.

16 VOICE: He just stepped outside.

17 CHAIRMAN MANDERINO: Oh, okay.  
18 Well, he was here listening to some of the  
19 testimony.

20 Go ahead, Gordon. And please, for  
21 the record, get your name right for me.

22 MR. KECKEISSEN: My name is  
23 K-E-C-K-E-I-S-S, as in Sam, -E-N, as in Nancy.  
24 My first name is Gordon.

25 And that was very eloquent. I want

1 to thank this gentleman here (refers to Mr.  
2 Hamilton).

3 I have listened to these comments  
4 all day. I have listened to this testimony.  
5 I have been wanting to testify here since last  
6 Spring when these hearings began to be  
7 scheduled and canceled and scheduled and  
8 canceled and scheduled and canceled.

9 I am an attorney, and I am telling  
10 you -- I am going to tell you a little of my  
11 background for credibility purposes.

12 I am a constitutional law scholar.  
13 I have published on the subject of  
14 constitutional law. I am a member of Phi Beta  
15 Kappa. I am a former federal law clerk in the  
16 United States District Court in California. I  
17 have been admitted in three states. I have  
18 practiced law everywhere between Hawaii and  
19 New Jersey. I am a former Scout master. I am  
20 an Eagle Scout. I am a helper of troubled  
21 youths and young adults. I am a very good  
22 father.

23 And I live a hell every single day,  
24 because as I sit here this minute, I don't  
25 know if either of my children are dead or

1 alive, thanks to -- And when I refer to you,  
2 don't take it personally, I am referring to  
3 the Pennsylvania government.

4 It is easily the most corrupt,  
5 rotten government I have seen anywhere, any  
6 time in my 56 years on the planet.

7 I am currently reading the second  
8 volume of Teddy Roosevelt's biography. When  
9 Teddy Roosevelt was on the train--with the  
10 late president McKinley's body--traveling to  
11 D.C. to be sworn in as President--he had  
12 already been sworn in, he was going for the  
13 official ceremonies--he passed through  
14 Harrisburg. And the -- And this is a hundred  
15 years ago. And the Governor of Pennsylvania  
16 was there with his entourage to greet him,  
17 Teddy Roosevelt closed the blinds and let the  
18 train pass on through.

19 We are all familiar with the  
20 midnight pay raises. We are all familiar with  
21 the other dirty little things that are done by  
22 this body. Let's not kid ourselves.

23 I am not going to be a sycophant; I  
24 have to be very direct. This Commonwealth has  
25 destroyed my life. More importantly, it has

1 destroyed the lives of my two children.

2 Another thing about my background  
3 I didn't mention, which is relevant, I was  
4 emancipated at 15 because of child abuse,  
5 severe child abuse, so severe that I was  
6 emancipated because of it in 1968. That's  
7 back before they had group homes such as the  
8 ones where I help kids now.

9 I can tell you, categorically--I  
10 have heard the testimony from here, I know  
11 what goes on--I have no interest in -- I have  
12 no axes to grind here. This is -- I am far  
13 beyond that. The damage here has been done  
14 and it's permanent. I am suing this  
15 Commonwealth for millions of dollars.

16 You are already being sued by a  
17 former law clerk to Justice Thurgood Marshall,  
18 Dan Segal of the Aronchick firm, who is suing  
19 you -- Oh, when I say you, again the  
20 Commonwealth, none of you personally. Please  
21 don't take that amiss. He is suing the  
22 Commonwealth in a federal class action because  
23 of two cr\*\*\*ed judges up in Luzerne County.

24 Well, let me tell you something, if  
25 you don't already know. Those two cr\*\*\*ed



1 judges are the tip of the iceberg. This  
2 Commonwealth is full of them. The former  
3 Supreme Court Justice Cappy, writing an  
4 editorial defending the midnight pay raises  
5 when in fact he was a beneficiary of them,  
6 advising your body on whether or not they  
7 would be legal.

8           Needless to say, he recused himself  
9 from the decision as to their  
10 constitutionality, I guess in a nod to  
11 judicial ethics. But it was incredibly ironic  
12 because we pay for his services, so by his  
13 breaching his own ethics, he denied us the use  
14 of his services in deciding that case.

15           The government here is so  
16 incredibly corrupt. It's incredibly corrupt  
17 and you folks are insulting to the nth degree.  
18 I am looking at the signs behind you, virtue,  
19 liberty, independence. I feel like Patrick  
20 Henry in the famous, Give me Liberty, or give  
21 me Death speech in the Virginia House of  
22 Burgesses, which caused people to call, To  
23 arms! To arms! And he said he had  
24 gesticulated, he groveled before King George;  
25 none of it did any good.

1 I have been groveling and  
2 gesticulating for eight years since I lost my  
3 kids. I am a good man.

4 I never even got to testify before  
5 a corrupt judge, who is joined by, as a judge  
6 -- Or the fellow you heard earlier, Mr. Jeff  
7 Williams. And I am going on the record here.  
8 When I -- He represented my wife. He is the  
9 guy that came in here -- I am timing myself.  
10 I am with you.

11 CHAIRMAN MANDERINO: Okay. I am  
12 using the same watch I used on everyone else,  
13 sir.

14 MR. KECKEISSEN: Yeah, I know. I  
15 am just about finished.

16 But in any case, my kids were taken  
17 away from me without due process because Jeff  
18 Williams' partner joined the court and we got  
19 a new judge and they denied me testimony,  
20 denied my appeals, denied everything.

21 Jeff Williams was called the  
22 biggest p\*\*\*k in Bucks County. And he wants  
23 to do away with 50 years of jurisprudence?  
24 No, that 50 years of jurisprudence, we have  
25 good law in the books in Pennsylvania. Keep

1 it the way it is.

2 You start adding new factors, new  
3 statutes, you are going to have to start all  
4 over again. You have got good case law.

5 My final word is very simple.  
6 Three words of the solution to all of this.  
7 Forget all of the statues and all of the  
8 gobbledygook.

9 CHAIRMAN MANDERINO: Three words,  
10 Gordon.

11 MR. KECKEISSEN: Here it is:  
12 Enforce the constitution.

13 CHAIRMAN MANDERINO: Thank you very  
14 much.

15 Our next testifier is Ron Vestal.  
16 Mr. Vestal.

17 MR. KECKEISSEN: Wait. My mother  
18 was the abusing parent, by the way.

19 MR. VESTAL: Thank you.

20 CHAIRMAN MANDERINO: You are  
21 welcome. Thank you. Go ahead.

22 MR. VESTAL: My name is Ron Vestal.  
23 I live in York County. I am Vice President of  
24 the Pennsylvania Families Association. We are  
25 an all volunteer organization.

1                   The six counties that Jesse Storm  
2                   wasn't able to recite for you that have  
3                   sponsored, that have signed on in support of  
4                   House Bill 463 are Lancaster, Dauphin, Erie,  
5                   Centre, Clinton and York.

6                   CHAIRMAN MANDERINO: And I do know  
7                   we have those for the record, but thank you.

8                   MR. VESTAL: I am here in support  
9                   of House Bill 463. I am here in support of  
10                  presumptive equal custody.

11                  I have read through House Bill  
12                  1639, and I think things that need to be kept  
13                  into consideration and need perhaps to be  
14                  modified is what the Pennsylvania Bar  
15                  Association brought up; is that, new  
16                  petitions, especially petitions to modify,  
17                  need to be heard without conditions.

18                  In addition to that, I would like  
19                  to say that I thought Justice Baer made a good  
20                  point when he said the state can't raise kids.

21                  The state can't raise kids.  
22                  Therefore, I think it's best to believe that  
23                  the presumptive joint custody is the place to  
24                  start from. There will be less conflict, put  
25                  the parents on equal ground, and then let the

1 parents work it out.

2 There always will be more conflict  
3 when one person has an upper hand and one  
4 person is at a disadvantage. Put them on  
5 equal ground, let them work it out.

6 I don't want to talk about a lot of  
7 personal stuff, but I did want to say that I  
8 am a male victim of domestic violence. It  
9 does happen to men.

10 VOICE: (Inaudible).

11 MR. VESTAL: No, I don't think it's  
12 a good idea. I think it's a horrible idea.

13 I believe there are provisions in  
14 House Bill 463 to prevent domestic violence,  
15 and having that impact that abusers are with  
16 their children. And I think that's important,  
17 and that's already written into the law.

18 That's everything. Thank you.

19 CHAIRMAN MANDERINO: Thank you, Mr.  
20 Vestal. We appreciate it.

21 Andy Soltis.

22 MR. SOLTIS: Thank you. I am very  
23 fortunate to have the time I have with my  
24 children, six nights out of 14.

25 I started out, I wanted shared

1 custody. I thought that would be the best  
2 interests for my children and less back and  
3 forth.

4 I got that way -- Or I got to where  
5 I am now, at six out of 14, with a little luck  
6 and expensive attorney and the judge who is  
7 sympathetic to dads, which I am finding out is  
8 very rare.

9 And my attorney told me that,  
10 interestingly, older male judges are -- don't  
11 have a bias against fathers. Some younger  
12 female judges have a bias for more time with  
13 fathers with their children.

14 Anyway, before I -- the court --  
15 The time for shared custody of the court, my  
16 ex offered me six out of 14 nights. And I had  
17 heard about so many other horror stories, I  
18 jumped at that chance and I was delighted to  
19 do so.

20 I had also seen, throughout the  
21 process, the realities of things. When I went  
22 for child support, I was given something that  
23 I had to sign that said if I gave up -- if I  
24 didn't pay child support, I would go to jail.

25 In Domestic Relations Court, I was

1 told things to bring, as was my ex wife. I  
2 brought all of mine. She didn't bring hers.  
3 I was real curious to see what happened. She  
4 said that she forget them. Nothing was said.  
5 Equitable distribution, one year ago, things  
6 still have not happened the way that she is  
7 supposed to give things.

8 It has been said that only 20  
9 percent of contested cases go to court. Mine  
10 didn't go to court. I am lucky with my  
11 outcome of six out of 14. But I didn't go to  
12 court on that and other things because you see  
13 what the outcomes are, you know what you are  
14 not going to get, so why waste the time and  
15 money and the aggravation in vain.

16 I would also mention Justice Baer,  
17 this morning, offered about a high level of  
18 contact. It's also they would not allow me to  
19 take the children to the dentist, and at one  
20 additional point I had canceled an appointment  
21 with the dentist.

22 So I would admit that there were  
23 times we did have a high level of conflict.  
24 Though it seems to me that the presumption is,  
25 if there is a high level of conflict, it's the

1 dad's fault and the dad shouldn't have the  
2 time. It seems so much, in the courts, that  
3 the mothers know that they are going to get  
4 their way, and my experience has been they do.

5 He also spoke about the  
6 approximation rule, the idea of post  
7 separation should mimic prior separation.  
8 Mine, as well as many situations, were that I  
9 was working full-time and my wife at the time  
10 stayed home and then she decided to end the  
11 marriage; and so then at that point the  
12 presumption with younger children is that for  
13 the rest of their lives or until age of  
14 maturity, they should not have more time with  
15 their dad.

16 I think that approximation rule is  
17 more of a -- thought of as a static society,  
18 that things don't change. We clearly see when  
19 one parent doesn't work, they tend to go back  
20 to work after the children are finished with  
21 elementary school.

22 I was hoping that when I heard from  
23 other groups that they would offer solutions  
24 that there is a tremendous amount of benefit  
25 for children to spend more time with their



1 fathers. I am disappointed that I haven't  
2 heard that from other -- from groups that have  
3 come here to participate.

4 I would also like to say to the  
5 extent that I am an involved father, it is  
6 because my father was an involved father. I  
7 saw both of my grandparents be involved  
8 fathers. I saw my older brother be an  
9 involved father, my brother-in-law be an  
10 involved father, and countless friends be  
11 involved fathers. So I am trying to  
12 perpetuate that. I am trying to perpetuate  
13 the idea of being an involved father.

14 But as the research shows, that's  
15 just normal. That's what happens, that good  
16 fathering perpetuates itself; but then not  
17 involved fathers also perpetuates itself.  
18 That's why I think this bill for shared  
19 custody is so important. That where we are  
20 now, for too many families, you don't have  
21 perpetuating good involved fathers.

22 And what you decide here does make  
23 a difference as far as whether or not we are  
24 going to go to there, which we desperately  
25 need to.

1 Thank you.

2 CHAIRMAN MANDERINO: Thank you.

3 Next we have Van Woolley. Mr.

4 Woolley.

5 MR. WOOLLEY: Thank you,  
6 Representative Kathy Manderino and the rest of  
7 the committee.

8 My name is Van Woolley. I am from  
9 Montgomery County. I am involved with several  
10 parental alienation groups, not to mention  
11 them right now.

12 And I am also a male domestic  
13 violence survivor, which was caused because of  
14 our current domestic laws.

15 I am also, I was prior to my  
16 marriage, a business consultant and mechanical  
17 engineer. After my marriage, I was an Army  
18 officer with the Pennsylvania National Guard.  
19 Because of the current family law situation, I  
20 had to leave the Pennsylvania National Guard  
21 as many other officers had to as well.

22 Since then, I am currently--and I  
23 am going to address something that you guys  
24 have not heard yet today--I am currently the  
25 number two health insurance agent in the state

1 and number six in the country. I work with  
2 thousands of small business owners here in  
3 southeast Pennsylvania every year. And I have  
4 done polling, and 80 to 90 percent of them  
5 favor a stronger shared parenting presumptive  
6 joint custody arrangement, okay? This is from  
7 the people that actually work here in America  
8 -- in Pennsylvania.

9           The current family law system is  
10 causing a loss of health insurance for many of  
11 these members. I actually know several  
12 members here today that can't afford their  
13 health insurance due to the destruction which  
14 is presumptionately (phonetic) caused because  
15 of the family conflict, okay?

16           Speaking of conflict, there is  
17 three ways -- there is three things I would  
18 like you guys -- I am going to be brief with  
19 this, but there is three things I would like  
20 you all to try to focus on.

21           One is common sense. We can reduce  
22 litigation if we had a presumption of joint  
23 custody to start with. For instance, my  
24 divorce, I had one equitable distribution. I  
25 didn't go back and modify it six times. I am

1 not going to modify it another 12 times over  
2 the next 10 years.

3 Secondly, best interests of the  
4 child or definition of that. We need to look  
5 not only at the time of separation and/or of  
6 divorce, or of the child, or of the family at  
7 that present time. I think we need to look at  
8 this as a win-win situation as -- and to  
9 minimize loss.

10 Because that's what I do. As a  
11 health insurance agent, I minimize risk and I  
12 try to protect our families. That's what I do  
13 every single day. So I would like you to kind  
14 of think about that, how can we -- The best  
15 interests of the child should be for the long  
16 term of the child, which means to increase the  
17 potential of that family for the long term,  
18 not for right now.

19 And current laws, with no  
20 presumption of joint custody, creates and  
21 fosters an environment of win-lose and of lies  
22 and of embattlement. So we need to erase the  
23 embattlement to come together.

24 Finally, I would like you to all  
25 ask yourself why and why not, okay? Why are

1 we even here today? Why do we even have  
2 family court, okay? Why are we spending  
3 thousands of dollars on per year for each  
4 family, whether it be attorneys, psychological  
5 evaluations, to time away from being  
6 productive in society, that we don't need to  
7 if we had standard guidelines and at least try  
8 to maximize parenting time to begin with?

9 And then again, why not? Of  
10 course, there is no reason why not. When I  
11 was born, I had two parents. I loved them  
12 both. I had equal custody with both of my  
13 parents from day one. When they separated, I  
14 still had equal custody.

15 I would be crazy to presume that I  
16 would not have equal custody. All children  
17 should have equal access to their parents.

18 Thank you.

19 CHAIRMAN MANDERINO: Thank you.

20 Next we have Linda Dell. Ms. Dell.

21 MS. DELL: Hi. My name is Cindy  
22 Dell.

23 CHAIRMAN MANDERINO: Oh, I am  
24 sorry, Cindy. Thank you.

25 MS. DELL: That's okay.

1                   And I am here to speak from my  
2 heart today. I am in the middle of three  
3 generations of women, who but my mother,  
4 myself and my daughter, I am the only one of  
5 three who grew up with a father.

6                   My mom was the product of a  
7 divorce, the child of a divorce. And her mom  
8 restricted her from ever seeing her father.  
9 She never even met him again until she was  
10 married. My father took her to meet him. She  
11 definitely felt like there was something  
12 missing in her life, not growing up with a  
13 father.

14                   My daughter also grew up without a  
15 father, sorry to say. I was not married to  
16 her father, and he chose not to have anything  
17 to do with her and not be in her life at all.  
18 And I would have loved for her to have a  
19 relationship with him. She would have loved  
20 to have a relationship with him.

21                   Now, as an adult woman, she still  
22 desires to meet him some day. She feels that  
23 there is a piece of her missing because she  
24 never had a father in her life.

25                   Fortunately, for my daughter, there

1 were a lot of role models in our church who  
2 took, you know, took her on as their child,  
3 thankfully.

4                   So my father, to me, was a great  
5 value in my life. It is a wonderful  
6 relationship I have with him as well as with  
7 my mother. He stood up for me when people  
8 made fun of me in school. He taught me  
9 values. He taught me personal skills, and he  
10 taught me about fairness. He taught me about  
11 the value of relationships between children  
12 and their parents.

13                   And he also taught me that  
14 relationships were the most important thing in  
15 life. We didn't grow up with a lot of money  
16 and relationships definitely were most  
17 important to us.

18                   I feel that too many kids today  
19 grow up without fathers. I work for an  
20 organization in Pittsburgh on the north side,  
21 and we have seen the evidence of what happens  
22 to kids who grow up without fathers. I would  
23 say very few -- I can only think of one or two  
24 kids in our programs who actually have a  
25 father in their home.

1                   And the community in which I work  
2                   is one of three of the highest areas of  
3                   metropolitan Pittsburgh of violence, young  
4                   people are very promiscuous and they live in  
5                   poverty.

6                   I work with a number of the  
7                   Steelers, former World Champions. And one of  
8                   the guys who I -- who works directly with our  
9                   kids, one of the first things he recognized  
10                  when he came to visit our programs was the  
11                  number of young men who have no father in  
12                  their life.

13                  And that is what broke his heart  
14                  and now has brought him as a volunteer into  
15                  our organization to work there, and he has  
16                  also brought a number of other Steelers'  
17                  players who grew up in similar situations and  
18                  want to make that change in society.

19                  Just a couple specifics of things  
20                  that I have heard today is I don't think that  
21                  there is anyone in this room that would want  
22                  to put a child in the custody of someone in  
23                  the case of domestic violence, a real domestic  
24                  violence.

25                  And I think, from what I have seen,



1 is that the word real is the key there. I  
2 have seen too many PFAs filed by women who  
3 just want to gain custody of their children  
4 and take the father out of the lives of their  
5 kids and I think that's wrong.

6 Possibly what we need is maybe some  
7 changes in the laws about PFAs, where there  
8 would be more burden of proof needed to prove  
9 when abuse is actually occurring.

10 Relocations, I think -- I have  
11 heard the man from the bar association say  
12 that that's just absolutely terrifying to him  
13 as a father of a child of divorce -- or --  
14 Yes. And I would agree, I think relocations  
15 are more in the best interests of the parent  
16 who wants to relocate than they are in the  
17 best interests of the kids.

18 And I would say that for any child  
19 -- or any parent who wants to relocate --

20 CHAIRMAN MANDERINO: One minute.

21 MS. DELL: One minute, okay.

22 Any child who wants to relocate --  
23 I am sorry. Yeah, any parent who wants to  
24 relocate should basically relinquish their  
25 custody time and/or make a sacrifice to stay

1       wherever the child is. That's, to me, more  
2       giving as a parent.

3                       So basically I would like to say  
4       that I would wholeheartedly affirm the  
5       presumption of joint custody. I don't think  
6       any child should be denied the right to a  
7       relationship with either of his or her  
8       parents. And I don't think any loving parent  
9       would or should be allowed to have his or her  
10      feelings toward the other parent prevail over  
11      what's best and right for the kids.

12                      Kids are resilient. They will make  
13      it living halfway between -- you know, half of  
14      the time with the mom and half of the time  
15      with the dad. Consistent relationships are  
16      the best.

17                      Thank you.

18                      CHAIRMAN MANDERINO: Thank you.

19      Thank you, Ms. Dell.

20                      Mr. Addlespurger. Welcome, and you  
21      may begin.

22                      MR. ADDLESPURGER: Thank you. Good  
23      afternoon. My name is Steven Addlespurger, a  
24      citizen from Allegheny County.

25                      The issues within the proposed

1 bills relate to all of us. Children, parents,  
2 taxpayers suffer with the procedures and  
3 actions in the courts of Pennsylvania.

4 Financial gains for the state,  
5 county courts and attorneys in kind have far  
6 outweighed the best interests of our children.  
7 Systemic problems are consistent with  
8 financial gains associated through partial  
9 rulings.

10 The bills presented should contain  
11 language to identify and resolve these issues.

12 The false claims of a protection  
13 from abuse initiate procedures that result in  
14 financial gains for the attorneys and the  
15 county. These gains are at the expense of our  
16 children's rights. These gains result in  
17 significant financial damage to the parents;  
18 they can be catastrophic.

19 False claims are empowered by and  
20 enforced in collaboration by the Family  
21 Division and their affiliated attorneys.

22 Due process should have strict time  
23 limits that are followed, not postponed by the  
24 courts or attorneys in kind.

25 The Judicial Conduct Board and the

1 Disciplinary Board do not respond, as  
2 suggested, in their policies and procedures.  
3 The broad statements are usually taken as  
4 fact.

5 The statistics for filing PFAs,  
6 approximately 77,000 were filed by women and  
7 3,000 by men; and some may be legitimate.

8 PFAD is Protection From Abuse Data  
9 Exchange Center that has collaborated with  
10 JNET, the Justice Network system of  
11 Pennsylvania, with De Lloyd Services, which  
12 produces in the electronic -- produces the  
13 electronic exchange information systems.

14 The county and state input  
15 significantly controls these records. This  
16 data input, it destroys a person's credit.  
17 Dismissals and withdrawals of charges may not  
18 be processed correctly.

19 The consequences of these  
20 procedures does not have an immediate impact  
21 on the litigants. The majority of the  
22 litigants are not aware of the information  
23 that is available to law enforcement,  
24 employers or financial institutions.

25 These stealth procedures impact on

1 every major decision throughout their life.  
2 The litigants do not know the information that  
3 is being provided and do not have the ability  
4 to correct the errors that are made on these  
5 electronic records.

6 These data enterprises would  
7 suggest the need for further funding that  
8 results in enhancements that improve the  
9 integrity of the system and safeguard the  
10 litigants. The stealth exists when the named  
11 person does a request to know, which is in  
12 these electronic records. These data  
13 enterprises bills the state for further  
14 funding.

15 The filing of a false PFA have  
16 negative effects and collateral damage and  
17 lowers the earning capacity that is required  
18 for custody rights and child support. The  
19 courts, by way of the Domestic Relations  
20 Section, then claim contempt based off of a  
21 previous earning capacity.

22 Self Support Reserve guidelines,  
23 federal and state mandated, are not followed.  
24 Police do not enforce child custody orders.  
25 The false statements for more false statements

1 throughout a case.

2           There is another procedure that  
3 takes place that involves mail. Mailing and  
4 service of time-sensitive material are  
5 violating our due process. Attorneys, and in  
6 kind, can mis-present and claim anything they  
7 want without certification or verification  
8 with service.

9           Domestic Relations services, also  
10 known as DRAP, Domestic Relations Association  
11 of Pennsylvania, consistently sends materials  
12 that claim to be valid. Some documents have  
13 transposed signatures from the administrative  
14 judge that have been computer generated and  
15 anybody in the Family Division can send orders  
16 out.

17           Other documents are sent weeks  
18 after the suggested hand-printed mail date on  
19 these so-called court orders, claiming that  
20 you must perform a duty or pay money for  
21 compliance. The receiving date of the  
22 material have surpassed the compliance date.  
23 However, immediately after receiving the  
24 material and compliance being met, contempt is  
25 followed through as if a person violated the

1 suggested order and the torture continues.

2 CHAIRMAN MANDERINO: One minute,  
3 sir.

4 MR. ADDLESPURGER: What's that?

5 CHAIRMAN MANDERINO: One minute.

6 MR. ADDLESPURGER: Okay.

7 CHAIRMAN MANDERINO: You weren't  
8 looking up at me. I was trying to give you a  
9 sign that said you were --

10 MR. ADDLESPURGER: Oh, okay.  
11 That's fine.

12 These revolving doors and numerous  
13 demands and court dates lack reality. The  
14 reality in my case provides that parental  
15 alienation syndrome has been well-established  
16 and one of my children has been diagnosed with  
17 trichoto mania.

18 The courts of Allegheny County  
19 refuse to pay attention to their destruction  
20 of my children for the court's incentive  
21 money, which is Title IV-D, for child support.

22 Within my case, attorney's fees  
23 were extracted from the child support program  
24 called PACSES, which is the Department of  
25 Public Welfare; it is to be in control. A

1 response letter predated from the Department  
2 of Public Welfare claimed the judiciary was  
3 responsible. The trial judge of record claims  
4 to have powers that are enacted by the  
5 legislators.

6 Furthermore, the extreme cost in  
7 receiving funding and awards have left our  
8 children without both parents. The shining of  
9 the awards is a sad state of family law  
10 collaboration which creates a stench at the  
11 same time.

12 CHAIRMAN MANDERINO: I need you to  
13 wrap it up.

14 MR. ADDLESPURGER: This is a  
15 serious -- The financial interest gains of  
16 government officials or entities cannot be  
17 placed ahead of the well-being of children.  
18 The people do not empower the government to  
19 abuse court proceedings to seize assets and  
20 attack the well-being of our children.

21 The kids and parents for cash  
22 scheme in our counties are not justified.  
23 There are many similarities in the Luzerne  
24 County scandal that must stop.

25 In the opening statement, the



1 Superior Court judge re-enforced the  
2 importance of the rule of law on all court  
3 proceedings. The testimony from the  
4 transcript is as follows:

5 This is a serious matter, indeed,  
6 because an attack on the rule of law is an  
7 attack on democracy itself. The sense of  
8 community that underlies the Democratic  
9 government is sustained by the sure faith that  
10 a law will be applied uniformly and fairly  
11 without fear or favor of corruption. The  
12 financial gains and incentives that are within  
13 the existing family court laws must be  
14 resolved in order to restore the rule of law  
15 and eliminate the threat to our entire  
16 democracy.

17 CHAIRMAN MANDERINO: Thank you very  
18 much.

19 MR. ADDLESPURGER: Thank you.

20 CHAIRMAN MANDERINO: Next is  
21 Deborah Young. Deborah Young.

22 MS. YOUNG: My name is Deborah  
23 Young. I am with Justice for Families and  
24 Children in Philadelphia. I am an advocate  
25 for mothers, fathers, grandparents, aunts,

1 uncles, nieces, who are going through all of  
2 this. I want to thank you very much for  
3 letting me here to speak today.

4 I believe these equity bills are  
5 extremely important for our children to have  
6 both parents in their life. They do better in  
7 school. Their self-esteem would improve. The  
8 parental alienation would be less extreme.  
9 The statistics that have been spoken here  
10 today proves that, from everybody, being  
11 separated from either parent is detrimental to  
12 our children's sense of security, their mental  
13 stability.

14 The best interests of the child, I  
15 have heard that a lot today. The best  
16 interests of our children are with their  
17 mothers, their fathers.

18 They just don't lose their mothers  
19 and fathers, one or the other; they lose that  
20 other parent's family, the whole family,  
21 aunts, uncles, nieces, grandparents.

22 They lose everything. When one  
23 parent gets the most -- more custody, there is  
24 no equal anything.

25 If the father has custody and the

1 mother has only a weekend, where is the  
2 child's chance to see that part of the family?  
3 It's not there. They lose everything.

4 Like I said, I am not just here for  
5 mothers and fathers, I am here for these  
6 children.

7 The best interests of the child is  
8 both parents as long as there is no history of  
9 domestic violence. When you go into court,  
10 this must be proven in court.

11 People go, mothers, fathers, men  
12 and women, they go to court and say whatever  
13 they want against the other parent. It's not  
14 proven.

15 I proved my case. My abuser of my  
16 children have my children. I am a Guardian  
17 Angel. I got an award from the Vice President  
18 of the United States for my volunteer work.  
19 But I don't have my children, the abuser does.

20 There is no reason why us parents  
21 should be separated from our children for no  
22 reason. Right now, there are thousands of  
23 parents who are not allowed to see their  
24 children because of a spouse's unjustly,  
25 unfounded accusations.

1                   The children, they lose more than  
2                   their parent, they lose their whole family.

3                   I am here to support the mothers  
4                   and fathers and the grandparents--in fact, I  
5                   came with the fathers' groups--and getting  
6                   equal rights for their children.

7                   The custody laws here desperately  
8                   need to change. There is no reason why I  
9                   should be separated from my children, none  
10                  whatsoever. I have never hit my children,  
11                  never done anything to my children (presents  
12                  photo of children).

13                  If you stand on both feet and you  
14                  stand equal in the court--the mother has equal  
15                  rights and the father has equal rights--I  
16                  don't think there would be a big conflict with  
17                  the parents. Mothers and fathers should have  
18                  equal say in everything with their children.

19                  My children are suffering  
20                  depression, posttraumatic stress disorder. My  
21                  children are 11 and 12 years old and they live  
22                  with their abuser.

23                  Now, before he abused my kids, I  
24                  made sure he -- I did everything for him, to  
25                  stay in his life, before I found out he abused

1 my kids.

2 Children need a mother and a  
3 father. There is no and's, if's or but's  
4 about that. That is our God given right to be  
5 parents. Right now, the custody laws have  
6 taken away all of that and destroying our  
7 family under the constitutional rights.

8 Thank you.

9 CHAIRMAN MANDERINO: Thank you.

10 Next we have Richard Cosmore.

11 Richard Cosmore.

12 MR. COSMORE: Good afternoon and  
13 thank you.

14 I come here today kind of wearing  
15 three hats, and I hope to give you a different  
16 perspective on all of this.

17 My first hat is of a man that came  
18 from a broken home. At five years old was the  
19 last time that I saw my father, up until I was  
20 12. I saw him for one day. We went to the  
21 Strasburg Railroad in Lancaster County, where  
22 I now currently live.

23 There was another 12-year gap in  
24 time from when I would ever see my dad again.  
25 That was the last day that I ever saw my dad,

1 when I was 25; he died shortly thereafter.

2 At that point in my life, I was  
3 left with a bunch of questions that were never  
4 answered. My mother died shortly thereafter.  
5 I don't know why my father was not in my life.

6 When I reached adulthood and I  
7 became a noncustodial parent, a lot of things  
8 began to make sense as to why or how this  
9 possibly could have happened.

10 We got married at a young age. We  
11 had a child at a young age. She had an  
12 affair. She had a child to this other man.  
13 We got divorced.

14 Once I came to terms with that, it  
15 came time for the custody arrangement, for the  
16 custody fights in court, and I thought that  
17 everything would work out well. Because of my  
18 12-hour-a-day schedule, I assumed that I would  
19 be able to have my son every day that I was  
20 off, rather than he go to day care when she  
21 couldn't work. I was even willing to take on  
22 the second child that I knew wasn't mine, but  
23 I was willing to do that because it was my  
24 son's sister.

25 It wasn't long before I found out

1 what my place was in this custody system that  
2 we now have, and that was to do as I was told,  
3 at risk of upsetting the judge. And that's  
4 exactly what I was told, was just more or less  
5 go along with it. If you have your hearings,  
6 if you take this to trial, you will risk  
7 upsetting the judge and you could get the  
8 worse case scenario.

9 And I said, well, what is the worse  
10 case scenario? They said, you would get one  
11 weekend a month and you would get two weeks  
12 out of the summer. And that, to me, wasn't a  
13 possibility. That just could not happen.

14 As I talked to other fathers who  
15 had the same judge, they said, yes, that is  
16 very much a possibility. That is the reality  
17 of the situation. If you can get her to agree  
18 to a better situation, you should take it. So  
19 we reached a stipulation.

20 Shortly thereafter, it came time  
21 for her to relocate to New York state. And  
22 again, I was told the same thing. She is  
23 going to relocate whether you want her to  
24 relocate or not. This judge will allow her to  
25 move and you just need to go along with it.

1 You need to take whatever visitation  
2 arrangement you can from this judge and you  
3 need to deal with it. So that is what I have  
4 done, and I have done that for the last 10  
5 years.

6 So I am not here to change my  
7 situation. What I am here to do is hopefully  
8 change the situation for my two sons that I  
9 now have. The 15 year old that now lives in  
10 New York state with his mother and the two  
11 year old that I have now--God forbid something  
12 should ever happen between his mom and I--I do  
13 not want these two boys to ever, ever, ever go  
14 through what I have gone through in this court  
15 system.

16 The third hat that I wear today is  
17 as a police officer of 20 years with Lancaster  
18 City Police. I have heard the Domestic  
19 Violence Coalition speak of domestic violence,  
20 and that is a serious phenomenon not just  
21 isolated to Lancaster but across the state.

22 What is more alarming are the false  
23 allegations of abuse and the pretenses for  
24 which the PFAs are now issued, particularly in  
25 Lancaster County, and probably across the



1 state. I have gone to many cases where I have  
2 been able to prove that women have struck  
3 themselves, they have had other people strike  
4 them and tell me that it was from a former  
5 partner. These were done based solely for the  
6 purpose of getting PFAs.

7 One thing that was not spoken of,  
8 by anybody here, is a suicide rate that is  
9 suffered by noncustodial parents at the hands  
10 of our now custody laws.

11 I can tell you that for every  
12 domestic related homicide case I have been  
13 part of, I have been part of three suicides  
14 related to either custody issues that the  
15 victim has gone through or has recently gone  
16 through within the last six months of his or  
17 her life. They took the ultimate sacrifice of  
18 taking their life because they could not take  
19 the pressures that were put onto them by this  
20 system.

21 Again, I believe House Bill 463 is  
22 the correct direction to go with this. I  
23 believe it does take into consideration  
24 domestic violence. It does take into  
25 consideration sexual violence. It does take

1 into consideration criminal history.

2 And I thank you for your time  
3 today.

4 CHAIRMAN MANDERINO: Thank you.  
5 Michael Shastay. Mr. Shastay?

6 MR. SHASTAY: Yes.

7 CHAIRMAN MANDERINO: You are up.

8 MR. SHASTAY: Good afternoon. My  
9 name is Michael Shastay. I am from Montgomery  
10 County. I am really not prepared to speak  
11 today, but I have to say a few things. A few  
12 people ago, somebody had mentioned about --

13 CHAIRMAN MANDERINO: I am sorry,  
14 Mr. Shastay, move the mike a little closer to  
15 you and make sure the green light is on.

16 MR. SHASTAY: Oh, I am sorry.

17 Several speakers ago, someone had  
18 mentioned about how the courts are funded.  
19 And, you know, I don't know how many people  
20 realize this, but the courts are funded by the  
21 blood of these men in this room.

22 Speaking with Dennis O'Brien, who  
23 used to chair this committee years ago, I had  
24 a meeting with him. And he told me that --

25 Back then, it was House Bill 888.

1 And he said that that would never pass because  
2 it would have to go through the House  
3 Appropriations Committee and he didn't believe  
4 that it would ever pass through that  
5 committee.

6 And we -- I never understood why  
7 and I don't think any of the people that were  
8 with me understood why, until we, you know,  
9 later, a couple of years later, we found out  
10 about the welfare, what is it, IV-D, Title  
11 IV-D funding, where Pennsylvania courts are  
12 funded to the tune of billions of dollars a  
13 year from the blood of these men in this room.

14 For every dollar in child support  
15 that we are paying, the federal government is  
16 funding the states with money for the courts.  
17 And I don't know, that's just very odd how --

18 I feel like a slave to the state.  
19 You know, keep me from my child and we're --  
20 Keep me from my child and we'll balance  
21 Pennsylvania's budget, that's nonsense.

22 But anyway, I am a domestic abuse  
23 survivor. And I was thinking here, my  
24 neighbor had just told me a couple of weeks  
25 ago, he has got a broken arm now.

1                   He is a dentist. He can no longer  
2 work. His wife broke his arm. They are still  
3 together. He is trying to work it out. He  
4 hasn't told anybody about his abuse. He  
5 just -- You know, it's an accident. It  
6 happened in the house. He fell down some  
7 stairs or something. That's what he is  
8 telling people.

9                   He knows my position and how I am  
10 associated with these groups. And he offered  
11 the information to me as long as I didn't  
12 share it with anybody. And hopefully it's not  
13 going to leave this room, but.

14                   CHAIRMAN MANDERINO: This is being  
15 televised as we speak, just so you know that.

16                   MR. SHASTAY: Okay. That's fine.

17                   CHAIRMAN MANDERINO: No, seriously,  
18 PCN has been recording this and it is live on  
19 air right now.

20                   MR. SHASTAY: Okay.

21                   But anyway, I also have two nephews  
22 who have been in and out of prison for the  
23 last 10 years. Their father was run out of  
24 their life, my brother.

25                   From what I understand, both of my

1 nephews have told me that their mother had  
2 forced them to pull their pants down, on a  
3 weekly basis, when they would see their  
4 father, and she would punch them in their  
5 genitals. That was their punishment for being  
6 with their father.

7           They are both in and out of prison  
8 now, and now they are not going to be too good  
9 of citizens to this state, but that's their  
10 story.

11           Anyway, I am a domestic -- I am a  
12 survivor of domestic abuse. And, you know, I  
13 was told that I should never even tell this in  
14 court, when I went in there for custody--my  
15 lawyer told me--because it doesn't matter who  
16 the abuser is, whether it is the male or the  
17 female, but that surely my time with my child  
18 would probably be lessened because, you know,  
19 if my wife had abused me, we can't have the  
20 two together. So, you know, let's just remove  
21 daddy from the relationship and there goes the  
22 abuse.

23           But let me see what else I have  
24 here.

25           CHAIRMAN MANDERINO: You have less

1 than one minute.

2 MR. SHASTAY: Okay.

3 Just to let you know, I have been  
4 fighting my battle for 10 years. Just last  
5 year, I finally got a holiday schedule with my  
6 daughter. Now I can have Christmas with her.

7 In years past, my ex-wife would  
8 force me to celebrate Christmas with her on  
9 the week before or the week after, the day  
10 before or the day after. I never got any  
11 holidays. Vacation schedules, you know, I had  
12 to fight for them.

13 I am a father. All I want to be is  
14 a father, all I want to do is throw a ball  
15 around with my child and I have to go through  
16 all of this nonsense only because -- so we can  
17 fund this state. I don't know. I am sorry, I  
18 am upset, and I am not well-prepared.

19 But thank you for your time.

20 CHAIRMAN MANDERINO: Thank you.

21 At this point, I have a couple of  
22 announcements before I adjourn the hearing.  
23 Number one, this hearing has been -- is being  
24 shown contemporaneous with its occurring on  
25 PCN, and it's my understanding that folks have

1     been calling in--and I assume maybe to the  
2     Chairman's office--asking some of their own  
3     questions or posing some questions.

4                   As I said to folks who were in the  
5     room, we will keep the record open for the  
6     next week.  If anybody has any additional  
7     comments that they want to send in, they can  
8     send them in.  You can just put them in  
9     writing and send them to either myself,  
10    Representative Manderino, or Chairman  
11    Caltagirone at the Main Capitol Building,  
12    Harrisburg, 17120, and we will incorporate  
13    your remarks for the record.

14                   I also do want to state--and we  
15    listened very attentively to all the people  
16    and citizens who came--we appreciate you  
17    coming to give your testimony.  I would never  
18    contradict somebody with regard to their  
19    opinion.  I think everyone is entitled to  
20    their opinion.

21                   But I do just want to say with  
22    regard to the last testimony, so that there is  
23    no mistake, and I understand how it is easy to  
24    happen when you are a layman and you don't  
25    understand, kind of, how funding mechanisms

1     come in, but all money that comes into the  
2     courts through child support goes out to the  
3     families for child support.

4                     The federal program that was being  
5     referred to is a program that makes sure that  
6     we maximize and get in the money so that we  
7     can get it out to the families, so that they  
8     are not relying on state support. But it is  
9     not funding the state courts. I just want to  
10    make that very clear. Child support money is  
11    for children and families in Pennsylvania and  
12    everywhere.

13                    I thank you all for being here, and  
14    this meeting is adjourned.

15                    (AT 3:15 p.m., the hearing was  
16    concluded.)

17                             \*   \*   \*   \*

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