



Testimony on behalf of the National Association of Social Workers-PA Chapter

Presented by Jenna Mehnert, MSW

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Good afternoon. I appreciate the opportunity to offer comments on behalf of the social work profession on House Bills 418, 463, and 1639. The Pennsylvania Chapter of the National Association of Social Workers understands the complicated and sensitive nature of the issues being explored in these bills. How we each parent and our right to maintain close relationships with our children are issues filled with emotion. There are several factors that must be considered when determining legislative reform to Pennsylvania's child custody law. The ability for fathers to actively parent and a parent's ability to protect his/her children from exposure to domestic violence make finding the ideal balance ever so complicated.

Debate could go on for hours about how to implement the concept of "in the best interest of the child." While mothers traditionally are more engaged in childrearing duties, previous distributions of labor cannot dictate custody arrangements, nor can the current dynamics of parent/child bonds. If a father must work 12 hour shifts to support his family, he cannot be punished in a custody process for not having spent as much time with the child. However, if a father has chosen to not to play any meaningful role in a child's life, his investment in the wellbeing of that child must be examined. Research can be used to say many things, but a study by Robert Bauserman entitled, "Child Adjustment in Joint-Custody Versus Sole-Custody Arrangements: A Meta-Analytic Review," claims after examining 33 studies related to child custody "that joint custody can be beneficial to children in a wide range of family, emotional, behavioral, and academic domains." It goes on to state that "joint custody children showed better adjustment in parental relations and spent significant amounts of time with the father..." Also cited in this article is a 1999 analysis of several large-scale national samples that "found that father absence due to divorce is associated with less school achievement for both boys and girls, more labor detachment (unemployment) for boys, and early childbearing for girls."

Research and commonsense make it clear that the best interest of every child is two parents who love and nurture that child. The challenge is that no judge has a crystal ball or the ability to know the true intentions of another individual. Domestic violence and child abuse are interrelated with studies supporting a 30-60% overlap between these two types of violence. NASW-PA would argue that a child who witnesses domestic violence is also a victim of violence and should be separated from that offender. As a former child welfare worker, I can share first hand that abuse allegations during child custody fights are the hardest to investigate with the truth being difficult to uncover and the best interest of the child often very grey to define. I think we would all agree that the safety of the child must be fully explored in every custody case.

NASW-PA believes there are two key factors that should be in place to create a system that is most likely to produce the best decisions for children: 1) the presumption of joint-custody, and; 2) a requirement for licensed evaluators.

Parents should start with an equal right to parent their children. Only after factors determine that there are significant reasons should one parent's access to their child be less than the other parent. Too often the critical role that fathers' play in the psychological development of their children is ignored or dismissed. Having an involved dad is just as critical to a child's happiness and future success as having an involved mom. Our legal system needs to recognize and support the value of both parents.

The key to making these determinations is not giving one parent an unfair advantage in the custody process, but rather requiring strong evaluations that provide judges with the necessary details to understand when factors such as domestic violence, substance abuse, or absenteeism are present. Judges need to have child custody evaluations that are conducted by professionals who are educated, trained and licensed to engage in the complicated and very difficult work of painting a comprehensive picture of the situation so that an informed, professional decision can be made. Well intentioned individuals do not produce the same quality of information as licensed professionals conducting custody evaluations. Operating under the scope of a clear code of ethics is perhaps never as important as it is in complicated, messy custody cases where any unfair preference by the evaluator can result in a loss of access to one's child. Clinical social workers have a long history and clear professional standards for performing custody evaluations, and only licensed professionals with such standards should be given the judicial trust to perform this complicated role. Custody battles are some of the most difficult professional cases imaginable, and every effort should be made only to involve seasoned professionals in the evaluation process.

NASW-PA strongly supports the efforts to improve the process for making custody determinations. NASW-PA does have the following recommendations to improve HB1639:

- 1) Under the definition section it is suggested that a definition of "Child Custody Evaluation" should be added. NASW-PA would make the following suggestion; "comprehensive evaluations examining all factors to consider when awarding custody outlined in Section 5328 that are conducted by an individual who possesses sufficient knowledge, skills, experience, training, education and licensure to qualify under the Federal Rules of Evidence as an expert witness."
- 2) A provision should be added under *(d) Counseling* that states either parent may consent for mental health counseling services, for a child under 14 years of age, without the consent of the other parent as long as the services are provided by a licensed professional and both parents are exposed to the same information about those services.
- 3) Section 5240 should be amended to read, "Licensed health care or behavioral health practitioner," meaning a person who is licensed, ~~accredited or otherwise regulated by the commonwealth~~ to provide healthcare or behavioral health services.

Thank you for taking these suggestions into consideration as you move forward on this critical and complicated issue.