

12:00-12:15

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Hon. Kathy Manderino, Chair
House Subcommittee on Family Law
House of Representatives
125 East Wing
P.O. Box 202194
Harrisburg, PA 17120-2194

Dear Representative Manderino:

I am writing to offer testimony in opposition to House Bill 463, which is under consideration by your subcommittee on family law. I am an attorney practicing in Centre County, Pennsylvania and was admitted to the Bar in 1992. The primary emphasis of my practice is custody and Protection From Abuse cases. Each year for the past several years, I have represented approximately 40 percent of the Protection From Abuse plaintiffs in Centre County, and I have represented hundreds of victims of domestic violence in both PFA and custody cases.

I am a member of the Centre County Domestic Violence/Sexual Abuse taskforce, and the Huntingdon County Domestic Violence taskforce. I serve on the coordinating committee for the Centre County Child Access Center, which is the new supervised custody exchange and supervision program in Bellefonte. I am a member of the fatality review committee which is reviewing the death of Jodi Barone, who was killed by the father of her children on Easter Sunday, 2007, during a custody exchange. While I do not speak for any of these organizations, my experience with them and my experience in practicing family law for many years reinforces my concerns about HB 463.

What I have seen in my practice is that most custody cases are resolved by the parties without significant intervention from the court. These parents are able to be civil and communicate with each other and very often they only want the court to document their agreement. In my experience, the vast majority of the remaining custody cases, those which cannot be resolved by the parents, involve domestic violence. House Bill 463 will have its greatest impact and do the most damage in these cases.

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Shared physical custody can work well where the parents are able to communicate with each other; where they have equal power and an equal voice in making decisions, and where each parent can respect the other. By definition, there is not an equal voice in an abusive relationship, and it should also be obvious that the abuser does not and cannot respect the other parent in this relationship.

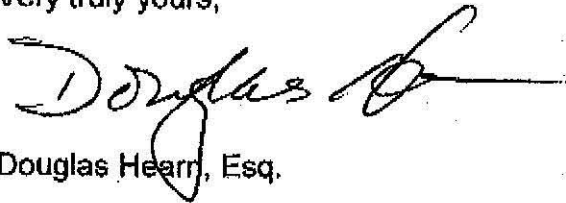
In the majority of the cases I have seen where domestic violence was involved, the abusive parent attempts to use the custody process to continue to control and abuse the other parent. A court award of shared physical custody places the parent who is the survivor of domestic violence, and the children, at greater risk because it increases the amount of interaction between the parents, and it increases the opportunities for the abusive parent to continue his or her abusive behavior. A presumption of shared custody ignores this reality of high conflict custody cases.

Those parent's who can make shared custody work, will do that on their own. A presumption of shared custody imposes shared custody on those who cannot make it work; those for whom it is unsafe and inappropriate.

A presumption of shared custody focuses attention away from the children. It takes attention away from their best interests and their safety. The presumption places the parents wishes at the center of the judge's decision. The children's needs should be the central issue, not the parents wishes. HB 463 completely ignores the child's safety. Judges should not have their hands tied and their attention diverted from the best interests and the safety of the children.

Thank you for your consideration.

Very truly yours,



Douglas Hearn, Esq.