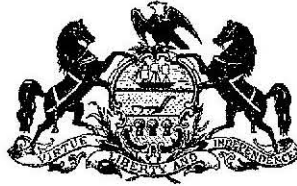


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*House of Representatives*  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

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**Child Custody Hearing      February 4, 2010**

Each year, thousands of Pennsylvania's families ask family court judges and court personnel to make the most important decisions of their lives. Who will have primary custody of the children, who will have partial custody and for how long, who will retain the use of the marital home, how much child support will be paid, to name but a few.

At the same time that families are seeking the help of the court, tremendous emotional and financial pressures are being exerted on mom, dad, and children. The break-up of a family causes the kind of hurt which cannot be adequately described in words, but can be silently understood.

The legislation I am proposing seeks to address the realities of family break-up by designing a system for the handling of matrimonial litigation - - those cases involving divorce, custody, child and spousal support, and equitable division of marital property - - in a way which puts families first, that treats each and every family member with courtesy and respect, and which is designed to dispense justice in a timely and less costly manner.

I am talking about establishing a system which is founded upon the principle called "therapeutic justice," a term originally coined by Senior Family Court Judge Michael Town of Hawaii. In such a system, court events are coordinated, the courts are user-friendly, more cost efficient, and time conscious. The kind of court system which anticipates that families will have questions regarding the court's processes and that those families not being able to afford lawyers - - and in Pennsylvania, there are far too many families who cannot afford lawyers - - will need special assistance in understanding and negotiating the system.

**The bill before you today, HB 418, is one part of a two-bill package designed to put the family justice system on the side of families. The other part, the implementing legislation, is HB 2046. While HB 2046 is not before you today, HB 418 really cannot be discussed without also mentioning HB 2046. Together, they represent my proposal to assist families undergoing the strain of family breakup. The remainder of my remarks will address both HB 418 and HB 2046.**

HB 418 proposes an amendment to the Pennsylvania Constitution so that the General Assembly may write statutes dealing with the procedural aspects of family litigation. An amendment to our Constitution is necessary because the Pennsylvania Constitution vests the Supreme Court with the exclusive authority to regulate the conduct of the courts. Further, the Pennsylvania Constitution empowers the Court to suspend statutes which conflict with court rules.

**HB 2046 is an amendment to both** the Domestic Relations Code and the Judicial Code. **HB 2046** makes no changes to the substantive law of matrimonial litigation, but does add a new chapter to the Judicial Code called the Family Law and Justice Act.

The legislative package I am sponsoring was first introduced in the 1999 Session. It was written by the House Judiciary Committee's Task Force on Domestic Relations, which was chaired by former Rep. Lita Cohen. The task force authored these bills after conducting a two year study, after holding several public hearings, and after meeting with judges committed to making family court work for families, including Justice Max Baer and Justice Sandra Shultz Newman.

To borrow a term from the judiciary, it is only right that we take judicial notice of the work of Justice Max Baer, who has been a tireless advocate for family court reform and for families. Under the watchful eye of then-Judge Baer, the Fifth Judicial District, Allegheny County, established a one judge/one family system to handle cases, along with many other reform measures. Today, thanks to the Supreme Court and the pilot project it instituted in four counties through Rule 1931 of the Pennsylvania Rules of Civil Procedure, Allegheny County is continuing down the road of reform, seeking to integrate what it calls adult court - - cases involving divorce, custody, support, protection from abuse - - with children's court - - cases involving delinquency and dependency.

We will hear directly from Justice Baer today about other initiatives spearheaded by the Pennsylvania Supreme Court in the area of family court reform. And I can't wait to hear what the Justice has to say. I can tell you that in 2005, the Supreme Court asked an experienced group of judges, lawyers, and other professionals to develop a model of reform which could be implemented throughout the Commonwealth with respect to custody.

When I read the report of this distinguished group called together by the Pennsylvania Supreme Court, the Commission for Justice Initiatives in Pennsylvania/Changing the Culture of Custody Committee, I couldn't help but notice that there are many similarities between the reforms I am proposing **in HB 418 and HB 2046** and the reforms proffered by the Changing the Culture of Custody Committee.

The most striking example is the committee's proposal that a system of one judge/one family be instituted to resolve custody disputes. According to the committee, when parents cannot reach an agreement under the auspices of a Family Relations Counselor, they would appear before a judge. Modifications to the order would be heard by the same judge. Under my legislation, a one judge/one family system would be established for all aspects of matrimonial litigation - - not just custody.

The Changing the Culture of Custody Committee also seeks a dedicated funding stream to help families pay for the costs of court-ordered events like mediation. The committee also urges the adoption of a cyber classroom, if you will, for pro se litigants - - a website with standardized forms, information on family litigation, and other material which would help those families who cannot afford lawyers traverse the court system. In the same vein, my legislation establishes a Family Justice Account to help families pay for mediation and the like. It also requires each judicial district to set up a Family Resource Center, a place where parents can gather information about the substantive and procedural law regarding family litigation. The Family Resource Center would also serve as a place where parents can safely leave their children while they attend court proceedings and where they ask questions of a court officer about the family litigation process. Each judicial district would also be required to write a pro se manual, a how-to manual regarding family litigation, for use by families who cannot afford lawyers.

Finally, the Changing the Custody of Culture of Custody Committee urges the adoption of mandatory education for family court judges and other court officers involved in custody cases. Indeed, the committee writes that, "There should be no judges presiding over these important cases who have not completed and kept current on this training." I could not agree more. My legislation also requires judicial education in the substantive and procedural aspects of family law, as well as domestic violence, child abuse and neglect, and family dynamics.

To complete the reform of the family litigation system, my proposal also establishes a differentiated case management system so that cases can be managed based upon their complexity. This system works hand-in-hand with a one judge/one family system and enables cases to be resolved in a timely and cost efficient manner. Additionally, family law masters are placed under the jurisdiction of the Judicial Conduct Board.

Even though HB 418 and **HB 2046** were first introduced in 1999, I know a new day is dawning for families in Pennsylvania. I am heartened by the Supreme Court's commitment to reform of family court, articulated in Rule 1931 of the Pennsylvania Rules of Civil Procedure, as well as the important work of the Changing the Culture of Custody Committee. I have abiding faith in the work of Justice Max Baer, and I am grateful for the many judges and family court officers who struggle mightily every day to do the best they can for Pennsylvania's families.

I stand ready to work with you, my colleagues in the legislature, the Supreme Court, and other professionals to knock down the dams that impede the flow of justice to families undergoing the terrible strain of break-up and divorce.

Sincerely,

Matthew E. Baker  
State Representative  
68<sup>th</sup> Legislative District