

10 March 2016

To: House Committee on Judiciary
Representative John Barker, Chair

From: Lance Kinzer
785-423-2083
ccprotheroe@yhoo.com

Subject: SB 393 Consideration of domestic abuse in determining the issue of custody, residency, and parenting time of a child

TESTIMONY IN SUPPORT OF SENATE BILL 393

Chairman Barker and Members of the Committee:

My name is Crystalee Protheroe and I am testifying as a proponent of SB 393.

On 17 April 2014 my life forever changed. I was accused of “parental alienation” and my children were ripped from their home to be sent half way across the country in order to live with their father. He petitioned the court for full custody after I had filed reports when my children said he and a half brother was acting inappropriately with them. I had reason to be concerned- there had been an incident of incest between his older children, and father had done nothing to protect the victim (his daughter-Lawrence PD incident report 2-14-939). As a result of a home study I was given supervised visitation. Short of saying I had alienated the children from their father I am still not aware of which incidents took place that justify this outcome. Unethical human rights and civil rights violations, such as what I have endured, has resulted in unjust outcomes and lapses in judgment of the *equal rights and protections*, (a constitutionally guaranteed right) of my children, and violations of my liberty as a parent. A parent is not supposed to be punished for making good faith allegations; which is required. Unfortunately in my case, and many, outcomes such as mine are common.

Lack of adequate laws to protect our human and civil rights have produced these outcomes. I was denied time to obtain an attorney when a Legal Aid attorney who had did not show up to a PFA hearing (12-20-13). We have been subjected to a home study in which more than likely defamatory and false information was provided by my ex-husband in order to reach his goal of stripping me to all parental rights. I was not afforded a copy of the home study prior to the hearing and the lawyer I had at the time failed to object to this (malpractice). I fired the attorney and requested a copy of the home study pro se. My request for this pertinent document was denied. This was and is a violation of my due process rights without it I was unable to file a timely appeal or reconsideration. Consequently, there is no recourse for this home study which was completed in secret, but is being cited as the sole reason for removing the children from my care and their state of habitual residence. I have filed a complaint regarding the Home Study with every agency in the state with the same response-we have no jurisdiction.

Kansas Supreme Court Guidelines on Case Management (CM) state on page 2 in the forward that CM is not appropriate for DV cases. We were assigned to CM. On page 4 paragraph 3 & 4 of the Supreme Court Case Management Guidelines it discusses that in such

cases one parent seeks to obtain and maintain power and control over the other that case management is not appropriate. Case management was not appropriate for this case. Father admitted to threatening to kill me during a hearing. Case manager identified that father was “punishing mother”, but failed to connect the dots. The only way father is able to continue to punish me is to maintain control and custody of the minor children. In doing so he is exploiting them. It is the belief of most (specifically victims of crimes) entering through the doors of the judicial system, that their rights will be protected *especially* when it comes to safety measures regarding them and their children. Family law is ambiguous and leaves room for substantial jurisdiction of judicial discretion –unfortunately, there is little to no direction on how to deal with abuse issues in custody determinations. Although there are laws outside family law that provide guidelines, they are often disregarded by Family Court. Case in point- the judge continued to order visitation even when the investigating detective contacted her to remind her of protocol-no visitation until an investigation has been completed. She ordered visitation, thus compromising the investigation.

The “Big Picture”:

I want to bring to the attention of this committee that this is not an isolated incident. In August of 2015 Safe Kids International and The Woman’s Coalition filed a human rights violation complaint against family law court(s) and family laws refusal and failure to provide equal protection to victims of domestic violence and children and adults from abuse of the offending parent. 8 Sept 2015 a PETITION FOR A WRIT OF CERTIORARI was filed with the supreme court to address whether or not Family Law Courts have the responsibility to uphold United States Federal Constitutional laws, prescribed within *Roe v. Wade*, applicable to the Fourteenth Amendment.

Supporting Information:

1. England has taken proactive stance in regards to abuse and manipulation of legal system and passed legislation Effective Dec 2015. The new law allows there to be legal penalties for those who abuse with a pattern of coercive behaviors to be sentenced up to five years in prison. 2. The Saunders Report (2012) is an investigation funded by the DOJ discusses how DV affects cases in family court, how women are unfairly discriminated against, and held to a higher standard for burden of evidence. It also discusses court officials’ attitudes towards those who bring abuse to light. It is not positive. 3. The Adverse Childhood Events Study, funded by the CDC and conducted by Dr. Vincent Felitti discusses the implications of allowing children to remain in unsafe conditions and the effects of the emotional devastation later in life. Some of the examples are higher risks of mental health disorders, suicide, and health related problems (Diabetes, obesity, early death). These issues are real and must be addressed (<http://www.cdc.gov/violenceprevention/acestudy/>).

Why action must be taken to end this legal trend:

Not addressing this type of judicial breach of protecting victims erodes the public trust in the judiciary. Additionally, places victims of DV and of abuse in danger, and is sending the wrong message to society: if you tell us about abuse we are going to punish you for it. The amendments support the civil liberties precedents set in. Federal Supreme Court Case *Troxel v. Granville*,

530 US 57 (2000), highlights ones fundamental rights and liberty to be a parent. This wording will give better guidelines for judges to follow when dealing with these types of cases and not inappropriately identifying them as “high conflict”.

Failure to prescribe such statutes leads to the worst case scenarios. Similar inaction, breach of duty, and lack of due diligence lead to cases such as Mekhi Patrick Dean Boone--who was murdered by his father. (<http://cjonline.com/news/2015-02-17/court-documents-show-dcf-contractor-missed-signs-abuse-beating-death-boy>). Please pass this bill- worse case scenarios can be avoided with preventative measures.

Respectfully,

Crystalee C. Protheroe (formerly Masarik)