

Senate Judiciary

Support SB 393

February 10, 2016

Chairman King and members of the committee,

The Kansas Coalition Against Sexual and Domestic Violence (KCSDV) is a statewide non-profit organization whose membership is comprised of the 29 sexual and domestic violence programs serving survivors of domestic violence and sexual assault across the state.

Research indicates that 30-60% of children living in homes where domestic abuse occurs are also physically or sexually abused.¹ Even if the child is not the victim of direct physical or sexual abuse, these children can exhibit emotional and behavioral problems and trauma symptoms.² A parent who perpetrates domestic abuse can often continue abusive behavior and intimidation by using the legal system to force long and costly custody battles.

In Kansas, one of the many factors a court must consider in determining the issue of child custody, residency and parenting time includes, *"the willingness and ability of each parent to respect and appreciate the bond between the child and the other parent and to allow for a continuing relationship between the child and the other parent"* (K.S.A. 23-3203(h)). This factor fails to consider those relationships in which one parent is perpetrating domestic abuse against the other and/or the child(ren). Often, a parent who is a victim of domestic abuse will seek to protect their child(ren) from witnessing or being a victim(s) themselves to the domestic abuse by allowing limited or no contact with the children by the abusive parent. Currently written, Kansas law penalizes that parent for failing to, *"...respect and appreciate the bond between the child and other parent and to allow for a continuing relationship between the child and other parent."* SB 393 seeks to allow an exception to this factor (K.S.A. 23-3203 (h)), by stating that, *"a parent's actions shall not be considered with respect to this factor if the court finds that such parent is acting to protect the child from witnessing or being a victim of domestic abuse by the other parent."* KCSDV supports the addition of this language and believes that the proposed language will make it clear that Kansas custody laws will not be used to protect the custody and rights of those who commit domestic abuse.

Kansas law does consider, "evidence of spousal abuse, either emotional or physical" (K.S.A. 23-3203(i)) as a factor a court must consider in determining the issue of child custody, residency and parenting time. However, the statute does not specifically mention "domestic abuse," or give this factor any special weight. SB 393 will specifically require a court to consider, *"whether domestic abuse is occurring or has occurred"* as a factor in making custody determinations, while providing a definition of domestic abuse that includes both physical acts and *"...A pattern or history of abusive behavior that is*

¹ Edleson J.L., "The Overlap between Child Maltreatment and Woman Battering." *Violence Against Women* Vol. 5, No. 2 (1999).

² Edleson, J.L. "Children's Witnessing of Adult Domestic Violence." *J. Interpersonal Violence*, Vol. 14, No.8, (1999).

used by one person to gain or maintain domination and control over an intimate partner or household member." KCSDV believes this language recognizes the wide range of abusive behaviors, which may not always be physical.

KCSDV urges your serious consideration of these important amendments to K.S.A. 23-3203.

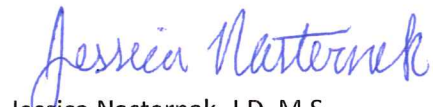
Submitted by,



Joyce Grover, Esq.
Executive Director



Kathy Ray, M.S.W.
Director of Advocacy, Education & Rural Projects



Jessica Nasternak, J.D, M.S.
Director of Legal and Policy