

SB157
House Judiciary Committee
TESTIMONY
March 9, 2020
OPPOSE

The Kansas Coalition Against Sexual and Domestic Violence (KCSDV) is a statewide non-profit organization whose members are the 26 sexual and domestic violence programs serving victims across Kansas. KCSDV provides information; training; and analysis and policy work on issues impacting victims of sexual and domestic violence, their families, and their communities.

KCSDV opposes SB157 and believes it is dangerous for victims of domestic violence and their children. SB157 creates a presumption that equal parenting time is in the best interests of all children unless the challenging parent can prove by clear and convincing evidence that such a presumption should not apply. Such a high standard of proof ensures most victims will not be able to satisfy the burden or afford competent legal representation to fight the presumption.

This bill has been amended to allow for exceptions for domestic violence in the bill's present form. However, KCSDV still has strong concerns. This exception presupposes that the non-abusive parent is the one filing the initial case and requesting temporary orders. If an abusive parent can obtain temporary orders, the non-abusive parent must request a hearing and present evidence of abuse. The legal system is difficult enough for domestic violence survivors to navigate. Having to overcome the significant burden of the presumptive for equal parenting time, often without legal counsel, is too significant a demand to place on domestic violence victims.

Studies have found that approximately 80% of divorce cases are settled, either upfront or as the case moves through the process. Approximately 20% of divorcing or separating families take the case to court, and approximately 5% of those cases ultimately go to trial or result in a "contested" custody case, of which approximately 20-55% have documented evidence of domestic abuse. *It is KCSDV's concern that this bill will mostly impact victims of domestic violence and their children, where the cases are contested and agreements cannot be reached for safety reasons.* Research shows that the best way to protect a child from domestic violence is to protect both the non-abusive parent and the child, keeping them safe and together, and providing them with the resources they need to be safe.

Research also indicates that 30-60% of children living in homes where domestic abuse occurs are also physically or sexually abused. Even if the child is not the victim of direct physical or sexual abuse, children exposed to domestic violence can exhibit emotional and behavioral problems and trauma symptoms. Additionally, a parent who perpetrates domestic abuse against the other parent often continues abusive behavior and intimidation by using the legal system to force long and costly custody battles. These are just a few of the reasons why consideration of domestic violence in custody decisions is so important.

In summary, KCSDV strongly opposes SB157, and we believe it is important to stress that presumptions often work to favor one party over the other. In the case of SB157, it will be the first person to the courthouse. Do we really want to pass a law that will be implemented by parties racing to the courthouse? Society wants victims to **protect** their children by leaving the abuser, while at the same time; society **punishes** them and their children for protective behavior.

Respectfully submitted,
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