

WRITTEN ONLY

I want to thank the members of the House Families and Aging Committee for allowing me to submit my testimony. My name is Nancy Fingerhood, I live in Canfield, Ohio I am a member of the National Safe Parents Organization which is the national umbrella organization on protective custody reform in the US, and a mother with lived experience. I ask that you vote NO on HB 14. The bill would switch the determination for custody from the best interest of children to the best interest of parents. This is a bill for parental rights, not the children's rights to safety and stability.

This bill is NOT just for safe parents as the sponsors of this bill state because the presumption of shared parenting will help abusive parents. They say there is a rebuttable presumption for domestic violence and child abuse, however, they also are the ones promoting the idea that mothers fabricate allegations of abuse to get custody. False allegations of sexual abuse are uncommon, even in custody disputes. According to Bala et al. (2007), non-custodial fathers (15%) were more likely to make international false allegations of abuse than custodial parents, mostly mothers (9%).

The vast majority of custody cases are settled out of court. Only 10% of cases end up in family court and of those 10%, 75% involve domestic violence and child abuse. Yet, according to Joan Meier's study, "Child Custody Outcomes in Cases Involving Parental Alienation and Abuse Allegations," courts only believe mothers' abuse claims 39% of the time and if fathers cross claim with parental alienation they reject abuse claims at an even higher rate. The research and studies that I am discussing with you can be found at the end of my submitted written testimony.

The sponsors claim that shared parenting reduces conflict even in cases where there is previous conflict between parents. This is absolutely not true. Here is my personal experience. My child's father would counter parent while I did my best to navigate the chaos that he created. BECAUSE of shared parenting, getting anything for our daughter was a huge issue - from getting her braces to vacation days to allowing her to see a therapist. When someone is using coercive control to continue to have power and control over you, shared parenting only escalates conflict and often prevents the safe parent from taking care of a child's needs. Coercive control leaves no physical bruises so it is not like could file a police report which would be necessary to even consider not having shared parenting if this bill is passed.

One of the amendments includes punitive provisions around a parent who has made "false allegations" of child abuse and domestic abuse. Yet, Ohio already prosecutes false allegations. Under Ohio Revised Code (2921.13), making false statements to the police or any government representatives or officials under certain circumstances is illegal. In addition, penalties for perjury in family court range from civil penalties to jail time, with statutory issues that range from Class D misdemeanors all the way up to the felony level.

We have data to show presumed shared parenting is not in the best interest of children. In 2000, Wisconsin was the first state to enact a presumptive shared parenting, Act 130. A study in

Wisconsin Lawyer looked at 20 counties in Wisconsin and found that “Act 130 is not widely producing placement orders that explicitly attend to safety.” In addition, the act does not ensure that victims of abuse receive sole custody of children.

Unfortunately, father’s rights groups such as the National Parents Organization (formerly Fathers and Families) are exploiting the unfounded fears that family courts are biased against fathers. They are misrepresenting data from Kentucky to make the specious claim that “50/50 presumption laws reduce domestic violence”- and it seems some Ohio lawmakers have fallen for the ruse. Materials have been disseminated in support of the bill making the false claim that the outcome of Kentucky’s shared parenting law has had the effect of reducing domestic violence cases. According to the Data Officer and Information and Technology Services Department of Kentucky Administrative Office of the Courts: "My department makes no such claim about the effect of the [Kentucky 50/50] bill and I am not aware of any particular reason to expect that it is the cause for this trend [of reduced filings]. A reasonable supposition for the decline in 2020 might be the COVID-19 pandemic. A considerable reduction in the rates of filings in most categories can be seen for CY2020." There is no proof this bill would decrease the cost of litigation. Yet the sponsors make this claim with no evidence. In addition, the Kentucky Coalition against Domestic Violence has stated there is “absolutely no correlation between passage of the Kentucky law and the rate of domestic violence in our state.”

The intersection of domestic violence and child abuse is well documented. Many family court judges and other personnel are not well-versed on the research regarding the negative impact of domestic violence on children. Without this understanding, they allow the mother’s abuser to maintain custody of the children. Unfortunately, the abuse does not end when the mother leaves. It is channeled into post-separation abuse and/or the abuser directly abuses the child.

They say there is a rebuttable presumption for domestic violence and child abuse, however, the bill creates hoops that victims will have to jump through to make it harder to protect children. For example, if the bill passes, any child welfare finding of abuse would be insufficient to overcome the presumption of 50/50 custody and parenting time. Imagine - the child welfare process in juvenile court determines that one parent has seriously abused the child and yet, the custody court says that judicial finding is not enough. You must now completely relitigate that abuse case (without the resources of child welfare) or the parent who abused the child has control over access to medical and mental health treatment and gets the child exactly 50% of the time.

In addition, the burden of proof for domestic violence survivors would become insurmountable for most because the bill requires clear and convincing evidence of abuse. For a plethora of reasons, survivors do not always seek help from authorities before leaving the abusive home. In fact, Austintown resident Ashley Lockhart was embroiled in a violent relationship with her ex-boyfriend who threatened to kill her more than once. Before going to the police, she had told a friend she waiting to report the abuse so she could build up evidence since she did not trust the

justice system would help her. Sadly, he murdered her before she gained the courage to go to the police.

In the bill, it states a court may terminate a shared parenting order on the motion of one or both parents if the court determines either of the following: (A) The shared parenting agreement incorporated into the order is detrimental to the child based on the factors under section 3109.0411 of the Revised Code. (B) One parent demonstrates a pattern of willfully creating conflict in an attempt to disrupt a current or pending shared parenting arrangement and the court determines both of the following by a preponderance of the evidence: (1) It is unable to enter a shared parenting order that will reduce areas of conflict caused by the disruptive parent. Please be aware that protective parents and their protective behaviors are frequently interpreted as disruptive, unfriendly, uncooperative, and even alienating behaviors. Research is showing that when the parent accused of abuse responds by accusing the protective parent is the one interfering with the parenting relationship, the abuser is significantly more likely to get custody of the children - even when there is proof of the abuse.

In a study done in Ohio by Michelle Bemiller called **When Battered Mothers Lose Custody: A Qualitative Study of Abuse at Home and in the Courts**, research found that mothers' allegations of abuse were not believed in the courts and very often they lost custody to the abusers. For example, she cited Gloria, who "had substantiated reports of abuse but her ex-partner was granted custody of their six-year-old daughter. Judges refused to hear undocumented cases of abuse. Lenore in the study, for example, attempted to bring her ex-husband's domestic charges to the judge's attention. Lenore's ex-husband's attorney stated that these charges should not be brought up in court as they had no bearing on the current case. The judge agreed."

A mom asked what to do if she suspects her toddler is being sexually abused by her ex. Here was my advice: have her tell her pediatrician. tell the pediatrician to ask her how things are going at her dad's. Then the pediatrician will call the police (do not get CPS involved because they often get it wrong). Do not do it yourself or they will not believe you or say you coached her. It upsets me to no end that as mothers we can't just call the police and be believed. That we have to jump through hoops to protect our kids and strategize like this. It is infuriating.

Every family is different and each case in family court should be looked at individually. If we are going to focus our energy in any way in the family court system, let it be that judges are ensuring both parents with designated parenting time are truly "fit, willing, and able" in the best interest of the children. Thank you again for this opportunity. Please vote NO on HB 14.

SOURCES:

<https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/article.aspx?Volume=91&Issue=11&ArticleID=26737> *

<https://www.ojp.gov/pdffiles1/nij/grants/302141.pdf>

Child Custody Outcomes in Cases Involving Parental Alienation and Abuse Allegations

GWU Law School Public Law Research Paper No. 2019-56

GWU Legal Studies Research Paper No. 2019-56

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3448062

Trocme, N. & Bala, N., False allegations of abuse and neglect when parents separate, *Child Abuse & Neglect*, 29(12), pp. 1333-1345,

Ollendick, White & White, *The Oxford Handbook of Clinical Child and Adolescent Psychology*, 499 (2018).

See generally, Jaffe, Zerwer & Poisson, *Access Denied: The Barriers of Violence & Poverty for Abused Women and their Children After Separation* (citing four studies, all of which found 70-75% of cases in litigation involved allegations of domestic violence).

When Battered Mothers Lose Custody: A Qualitative Study of Abuse at Home and in the Courts <https://www.tandfonline.com/doi/abs/10.1080/15379410802583742>