



Generations

A Family Place Inc.

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What Makes HB 334 a Bad Bill

I am a therapist in private practice in Anchorage. I work with children and families. A significant part of my work involves families going through divorce. A number of my clients (children and adults) are struggling with either getting free of an abusive situation or recovering from the effects of abuse. I do custody investigations, expert witness testimony and court ordered therapy. I have been involved in various ways with addressing domestic violence and its effects for nearly 30 years. I consider myself to be on the front lines and deep in the trenches of the fight against domestic violence. If HB 334 passes it will roll back the clock 30 years in terms of protecting children and victim parents to a time when there was little recourse for victims and children; where one State Custody Investigator actually recommend that children be placed with a batterer because the mother “acted like a victim” and he did not want the children to learn that dynamic from her. Children and victim parents have a right to live free of abuse and the threat of violence. They deserve safety. This bill would throw them to the wolves.

HB 334 WILL COST TOO MUCH MONEY AT A TIME WHEN WE CAN LEAST AFFORD IT!

If passed, HB 334 will dramatically increase costs to the State of Alaska at a time when it can ill afford to do so. Raising the bar from a finding of domestic violence by a preponderance of the

evidence to a conviction of a crime of domestic violence (beyond a reasonable doubt) will lead to increased demands on the State Attorney General as well as municipal prosecutors to prosecute every case of domestic violence. There will also be increased demands on the Public Defenders office, the Office of Public Advocacy and the Office of Children's Services. State Troopers and local police departments will see increased costs due to needing to respond, report, file charges and ultimately testify in criminal proceedings. There will be increased demands on the courts to hear DV cases that previously could have been handled as a civil matter but now must be dealt with as a criminal matter – with all the attendant complications and costs.

THE “REBUTTABLE PRESUMPTION” WORKS

The law as currently written is doing a good job of protecting vulnerable children and victim parents. Yes, there may have been some cases in which a judge erred and “found” domestic violence when none had occurred; but these cases are *the exception not the rule!* In my experience I have seen far more instances in which the battering and domestic violence was real; but there was not enough evidence to prove by a preponderance of the evidence (the current civil standard) that domestic violence had happened. The result was the abusers' position was strengthened and the children and victim parents became even more trapped and helpless against the abuse.

The “rebuttable presumption” requires a judge *find* domestic violence. Nobody lost their children because they were “accused”. Due process rights are observed. Parents facing accusations of domestic violence are afforded the opportunity to face their accuser, hear and see the evidence, offer their own evidence and arguments. This bill is not ~~guaranteeing~~ ^{restoring} some lost rights to accused parents it is denying the right to safety to vulnerable children and victim

parents. Raising the standard to a criminal conviction beyond a reasonable doubt is unreasonable and unrealistic to the victims of domestic violence.

EDUCATION AND TRAINING ARE NEEDED – NOT DENIAL OF PROTECTION

For those few cases in which a parent may have lost custody of their children due to an erroneous finding by a judge, the remedy is better training of judges, custody investigators, attorneys, OCS Social Workers and other interested parties about domestic violence. Such “false positives” of course are tragic to the parents and children, but far more tragic will be the countless “false negatives”, the failure to prove beyond a reasonable doubt that will trap and ultimately destroy too many victims of domestic violence. We do not need to take away safety, we need to increase safety by increasing knowledge, accuracy and understanding about domestic violence.

SAFETY IS THE HIGHEST PRIORITY – NOT PARENTS’ RIGHTS

The timing of this bill is interesting in that I am the co-author of a proposed bill that would have improved the rebuttable presumption by requiring judges to make the safety of children and victim parents a higher priority than a parents’ right to possess their child. Domestic violence is real. It happens far too often and gets far too little appropriate attention. The things that happen to seemingly normal healthy families behind closed doors out of sight of witnesses and objective fact finders can be shocking and unbelievable. So shocking and unbelievable in fact that all too often people do not believe the victims when they finally speak out. It is easier for the ill-informed, the untrained and the biased to believe that a parent is trying to gain the upper hand in divorce by making false allegations than to accept that this otherwise charming and appealing individual is a wolf in sheep’s clothing committing monstrous acts. Too many lawyers who represent these wolves somehow believe that there is a magic door in their office through which

only the righteous pass. In doing their job of zealously representing the interests of their wolf clients they create the false narrative of a poor parent victimized by a false accusation. Please do not be swayed by this false narrative. The story that needs telling and to be heeded is the unbelievable and shocking tale of innocent children and victim parents who have been controlled, terrorized, abused and worse.

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