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April 8, 2016

BY EMAIL

The Honorable Representative Gabrielle LeDoux
Chair, Judiciary Committee
Alaska State Legislature
State Capitol, Room 118
Juneau, AK 99801-1182

Re: Opposition to HB 334

Dear Rep. LeDoux,

I am the senior staff attorney with the Alaska Network on Domestic Violence & Sexual Assault (ANDVSA) Legal Program. I am writing to oppose HB 334 and its proposed repeal of the domestic violence presumption and proposed requirement that evidence of domestic violence, child abuse, and child neglect be proved by clear and convincing evidence. I previously testified in opposition to an earlier version of HB 334 that would have required a criminal conviction for domestic violence to trigger the domestic violence presumption. I testified about my concerns that the earlier version of HB 334 would not adequately protect victims of domestic violence and their children. I continue to have the same grave concerns about the latest version of HB 334. Removing the domestic violence presumption and requiring proof of domestic violence by clear and convincing evidence will harm Alaskan children by diminishing the significance of domestic violence in child custody cases.

I have been an attorney with ANDVSA since 2010. My practice is exclusively devoted to serving low-income victims of domestic violence and sexual assault, primarily in divorce and custody cases. I have represented dozens of victims—both men and women—all around the state, including in Anchorage, Juneau, Haines, Fairbanks, Barrow, Bethel, Kodiak, Kenai, Homer, and Cordova.

The domestic violence presumption has been exceedingly important to protecting children in many of my cases. The presumption means that courts must give full and thorough consideration to evidence of domestic violence. This, in turn, encourages victims of domestic violence to take the necessary and difficult steps to separate from their abusive partners and seek safety for their children and protection from the courts. I have heard countless clients tell me that they stayed in abusive relationships because the abusive partner repeatedly told them that if they left, they would lose their kids. Thanks to the domestic violence presumption, I am able to advise my clients that it is safe to move forward with a divorce or custody case because the court is required to take the evidence of domestic violence seriously.

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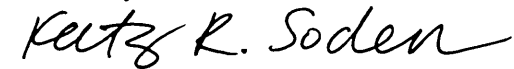
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Without the presumption, I cannot give this reassuring advice to my clients. Without the presumption, the court may choose to treat domestic violence as it would any other best interest factor. But that does not give domestic violence the weight it deserves, given the well-recognized negative impacts on children from witnessing domestic violence. By removing the domestic violence presumption, HB 334 will result in harm to Alaskan children because more victims will stay in abusive relationships rather than risk losing their kids to their abuser in court.

In addition, requiring proof of domestic violence by clear and convincing evidence will also result in harm to Alaskan children because the nature of domestic violence makes it exceptionally difficult—if not impossible—to prove by this standard. Domestic violence, by its very terms, occurs in our homes. It occurs behind closed doors. In the course of my work at ANDVSA I have heard from clients that abusers know how to hit in places on the body where there will be no visible bruising. Abusers will break or hide cell phones so victims can't call for help. Abusers will threaten to injure, kill, rape, and deport in order to prevent victims from reporting the violence. This all means that when many victims finally seek safety for themselves and their children in court they may not have proof of domestic violence beyond their own testimony. If the standard of proof is clear and convincing evidence, the court in turn may not be able to find that domestic violence has occurred. By elevating the standard of proof to clear and convincing evidence, therefore, HB 334 effectively rewards abusers who perpetrate violence behind closed doors and concurrently takes away from judges the ability to adequately protect children when the domestic violence has occurred in private.

For these reasons, I urge you not to pass HB 334. Thank you very much for your consideration.

Sincerely,



Katy Ruff Soden

Senior Staff Attorney

ANDVSA LEGAL PROGRAM

cc: Representative Cathy Muñoz