

Paula Fitzsimons Testimony

House Bill 4691 Shared Parenting

House Bill 4691 will NOT fix the current problem that we have in family courts throughout Michigan. Presuming joint custody merely helps the court put the "best interest" of the parent as a priority. Children have a right to safety per the 14th Amendment of the United States. Children have a right to due process. Children have a right to have their "best interest" considered in custody cases! These rights are often left out of high conflict cases.

Let me give you a very abbreviated version of my life. I was married to my abusive husband for 25 years. The abuse started out infrequent, maybe every 6 months, and he was always sorry and would never do it again and begged me to stay. As time went on, the abuse became more frequent and I started losing my support system. I had 9 brothers and sisters. I have only 2 left since our final separation because he convinced them that he was a great dad and that he was my children's primary caregiver and that I was "crazy". This man had not one but 2 Domestic Violence Convictions when we separated. I couldn't have friends because as time went on, he got me pregnant repeatedly and threatened to take them away from me if I ever tried to leave him. I have 8 beautiful children that he started beating when I got tired of anticipating the physical beating and told him to just go ahead and get it over with. He was not in control when I allowed him to beat me so he went after the children. He threatened to kill me day in and day out if I ever tried to leave him. I had to keep the bruises covered up so that no one would ask, hence, I could not have close friends. I had to keep our lives a complete secret from my entire family including my own parents.

When life with him finally reached its peak and he attempted to murder my daughter who had just graduated from high school by water boarding her in the kitchen sink in dirty dishwater, I knew that I could no longer protect my children. I was told that I could get a protection order and then found out that it only protected me and he would find ways around the order to continue threatening me. He used the children and the court to stay in contact and execute his blows on me. I was told that the laws would protect my children and soon found out that even Children's Protective Services (CPS) had little control over protecting my children. When my children's father finally got unsupervised parenting time, it wasn't even 24 hours before his local police department called and told me to come get my children because he had gone on a rampage that led my youngest child to hide in a closet to call 911 and the oldest ended with a concussion diagnosed in the ER while my daughter climbed out a basement window. It took CPS 6 very long weeks to investigate and because he only had visits with me having sole physical custody, they didn't file a motion with the court to remove the children from his custody. It was at the end of their investigation that they finally tried to file an Ex Parte motion to stop visits but were too late. He beat my children again in a Kmart parking lot after he threw their safety phones in the trunk, pulling them out of the car one by one while a 3rd party shopper called 911.

He was ultimately placed on the Central Child Abuse Registry and categorized as a Level II Risk. What I couldn't believe after that is that he could continue to go after me in court and still get visits with my children. He used all kinds of antics including throwing Parental Alienation Syndrome into the ring as well as numerous evaluators and therapists. Eventually, it came to light that he had been wiretapping my phone calls and then he himself typed up these transcripts and had his attorney present them to the judge to read prior to yet another custody trial. He took the liberty to change the conversations to his liking but the general conversations were there. He used this to gain unsupervised parenting time with my disabled son that cannot speak or care for himself. Within the first few visits, my son suffered a serious head injury that caused both an external and closed head injury and he now suffers an awful seizure disorder.

I finally separated from my husband in 2011 after he beat 4 of my children and smashed glass bottles over my head. It's been almost 6 years and he's finally facing felony charges for Eavesdropping and Eavesdropping-Divulging. In the meanwhile, my children not only suffered physically but psychologically and emotionally as well. My youngest son and only minor child left has been in therapy for 3 years with PTSD and High Anxiety and recently had to start a medication regimen to get him through school and life. There has been plenty more that has happened over my years of experience with an abusive man but the bottom line is that as victims, we are taught by the abuser to stay quiet or else... When I first left him, I was afraid to talk to anyone and didn't even realize how bad my situation really was. My children were the same way. Just because children don't come out speaking against an abusive parent, doesn't mean they've never been abused and/or threatened with abuse.

House Bill 4691 sets up abusive parents to continue their abuse with the cost landing squarely on the victim's shoulders. If this bill was in effect when I separated from my former husband, my children would have automatically been put at high risk. This is the riskiest time in a victim's relationship with an abuser and for the children as well. I would agree that joint custody for children where there are no allegations of abuse would be in their best interest. I disagree that bouncing children from house to house is in their best interest as children need consistency and a place to call home. Unfortunately, it is not common for parents to even stay in the same community so this just doesn't work as Mr. Ledbetter said.

I've listened to many speakers over the last 2 months both pro and con on this issue of Shared Parenting. I listened to Mr. Ledbetter throw out all kinds of statistics yet in the end when the committee questioned him, he admitted that this "presumed shared parenting" was not something that would work for every case. The practicality of it is just not there. He said that it would be up to the parents to work out the logistics and that there is no such thing as identical time. He said that it might look like 60/40 instead. He also recognized that there are "bad divorces" where only joint legal custody should happen as a presumption. In the end, he negated his presentation.

I've also listened to Judge Halloran. He is absolutely against this citing that the committee that he works with that is researching this dilemma is still trying to figure out where

the "faulty switch" is. He suggested that it may not be with the parents, the children or even the evaluators. He suggested that it very well could be with the whole judicial system in Michigan that does not follow the set laws and rules regarding child custody. If this is the case, which I personally suspect it is based on my own experiences, the current law that we have with the best interest factors would work if instituted consistently by the court system.

Further, the current laws that we have are supposed to consider Domestic Violence and Child Abuse along with, most importantly, the SAFETY OF OUR CHILDREN. Changing our custody laws to presume 50/50 shared parenting will only further exacerbate the unsafe world that those of us who have lived the life of abuse will experience.

For those that believe that this is the answer to the system's failures, let me point out what Judge Halloran pointed out. Judge Halloran cited that of all the divorce cases filed, only about 5% of those cases ever go before him. Those are the highly conflicted cases of which the majority involve some form of abuse. As Judge Halloran cited, 95% of all custody cases settle outside the court room. This being said, why would we change the law so that a sizeable chunk of that 95% now has to go before the judge because for various reasons, 50/50 shared parenting just will not work and the parents mutually agree?

I also heard Mr. James Mandel speak as a court clinical psychologist that handles children that make it into the juvenile delinquent system. He assumes in the children he sees that their behaviors are a direct result of not having both parents in their household. This can be identified as "confirmation bias". Mr. Mandel is a court psychologist and not a researcher so his statements are based on his own personal beliefs and hold no research statistics to back them up. Just like I come to you with my story, you can believe me or not but my proof is in the police and CPS reports and the Domestic Violence convictions. Mr. Mandel believes whole heartedly from his point of view that the children that he deals with in Juvenile Court might not be there if only they had 2 parents in their life. He might be right on some of the cases but making a blanket statement without looking at all the factors in the child's life is wrong.

The bottom line is that the law that we have now would be most effective if it were acted on in the cases where custody is in the middle of high conflict. I implore this group to look at ways to enforce the safety of children in cases where abuse and violence have been alleged. That should be the top priority over and above the "rights of parents". There should be neutral parties to evaluate the children that DO NOT work for the court but only for the children. Each case where abuse has been alleged should be presumed to be a protective parent with the safety of the children involved being the priority. Children need to be listened to and believed for what they present. Most importantly, each case brings its own set of circumstances and "pigeon holing" children into a one-size fits all law will not bring these children a better life. Just like every child is different, so is every parent, every evaluator, every therapist, every judge and every court. Children are not commodities to be bought and sold in a court house.

(I've come to this committee with some risk to my children and myself. I still have one minor child and there is still the possibility that his father will attempt to force a new custody trial once his felony trial is complete. At the present time, he has a 'no-contact' order with both my son and I as well as my Personal Protection Order. He uses the court to continue the abuse.

For example, he recently had me in court refusing to pay for eyeglasses saying they were frivolous. I had to pay for my attorney to be present for him to say that we have paid for all the older children to have glasses and then he agreed to pay for them. This is the easy stuff. It's costly to me when I cannot work outside the home because I care 24/7 for my disabled son but I'm the person whose safety is at risk when I have to come into contact with him in the court house. When he files for a change of custody, that not only affects my safety but affects the safety of my child.)

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