



90 Pitkin Street
East Hartford, CT 06108
(860) 282-7899
(860) 282-7892 Fax
(800) 281-1481 (CT only)

Member Shelter Programs

The Umbrella
Ansonia, CT

The Center for Women & Families
Bridgeport, CT

Women's Center
Danbury, CT

United Services, Inc.
Domestic Violence Programs
Dayville, CT

Network Against Domestic Abuse
Enfield, CT

Greenwich YWCA
Domestic Abuse Service
Greenwich, CT

Interval House
Hartford, CT

Meriden-Wallingford Chrysalis
Meriden, CT

New Horizons
Middletown, CT

Prudence Crandall Center
New Britain, CT

Domestic Violence Services
New Haven, CT

Women's Center of SE CT
New London, CT

Domestic Violence Crisis Center
Norwalk, CT

Women's Support Services
Sharon, CT

Domestic Violence Crisis Center
Stamford, CT

Susan B. Anthony Project
Torrington, CT

Safe Haven
Waterbury, CT

United Services, Inc.
Domestic Violence Programs
Willimantic, CT

To: Members of the Judiciary Committee

From: Pamela Heller, Policy Intern, CCADV

Date: March 10, 2006

**Re: Raised Bill No. 5600 – An Act Concerning Parenting Time
and Parental Responsibility With Respect to the Custody of a
Minor Child**

Good Afternoon Senator McDonald, Representative
Lawlor, and distinguished members of the committee. My name is
Pamela Heller, and I am a student at the University of
Connecticut's School of Law and School of Social Work. I am
currently completing an internship at Connecticut Coalition
Against Domestic Violence. I am writing today in opposition to
House Bill 5600.

There is no doubt that child custody and the best interests
of the child standard in Connecticut are emotionally charged
issues. The right to parent one's child is surely one of the most
sacred we have. Through the establishment of the "best interests"
standard, the legislature and courts of Connecticut have sought a
very delicate balance between preserving that right and protecting
children. In order to maintain this balance, it is vital that

determinations of child custody resulting from divorce be made on a case by case basis. While the vast majority of parents are not abusive to each other or their children, and their parental rights should be protected, the special case of domestic violence requires an appropriate response by those making and applying the law.

In a way, this bill supports the notion of case by case determination because it states that no presumption will be created that disproportionate parenting time is in the best interest of the child. Yet, because there is currently no presumption of that nature, it is not really clear what the legislation *would* in fact accomplish. On its face, it would seem to favor equal-time parenting over disproportionate arrangements. Any language that shows a preference to equal-time parenting will not find support among advocates for domestic violence victims.

Child custody determinations must be sensitive to the needs and concerns of battered spouses for many reasons. First and foremost, it is important to remember that child custody determinations are only necessary in cases where the divorcing parties cannot agree, which is only about 10% of all divorces with children. It stands to reason that domestic violence would be a significant indicator that the parents cannot agree and that the court will be involved to make a custody determination. The likelihood that a victim of domestic violence will be involved in a custody

proceeding is then very high; in fact, some estimates indicate that as many as 75% of cases where custody is contested involve domestic violence. If the rights of these victims are to be protected by the state, child custody legislation must be passed only with an acute awareness of its potential effect on family violence crime victims.

In homes with spousal abuse, children are unsafe and experience high rates of abuse, as well as negative psychological and behavioral effects from witnessing violence. Studies have shown that between 40 and 70 percent of battered spouses also report that their children are victims of the abuse. Another study reports that at least 70 percent of children *witness* the family violence committed in their home. These children are at risk for anxiety, depression, aggression, delinquency and acting out.

Whether children are witnessing or directly experiencing abuse, all the literature is clear that the effects are detrimental. These findings are significant to child custody policies because they indicate that an abusive parent should not have custody of a child, or at least that contact should be subject to appropriate limitations and guidelines.

There is also evidence, empirical and anecdotal, that abuse continues after separation and divorce. Child custody arrangements may exacerbate this likelihood, with one study showing that one

fourth of victims received death threats during visitation. If equal-time parenting is encouraged by legislation such as this, the amount of contact between a victim and abuser will in many cases be significant. The more the parents must interact, the more opportunity there is for abuse. Again, this endangers the children because of the ill effects of witnessing violence.

Batterers use child custody litigation as a tool of abuse. The question is often asked of battered spouses, “why didn’t you leave?” For many of these victims, well before any divorce proceedings begin, the batterer threatens to take away the children. When victims finally leave, they often face a child custody battle that has many built-in disadvantages for them, a system which too often allows a batterer to make good on the threat of taking the children. The answer to that oft-asked question is that the victims were afraid to lose their children, so that’s why they did not leave.

Victims of domestic violence already face many obstacles in retaining custody of their children and protecting the children from being abused or witnessing more violence. Victims who try to prevent the abuser from getting custody may be seen as “unfriendly,” meaning that they won’t be as accommodating to any custody arrangement so shouldn’t get primary residence or legal custody. Victims also are recovering from the trauma of the abuse and may be suffering the psychological consequences, such as

depression or post traumatic stress disorder, conditions that abusers will exploit and which make the victim appear less fit for parenting. Typical abusers will successfully manipulate any psychological evaluation of themselves by hiding any childhood history of abuse and remaining completely in control.

In general, joint custody and maximum time with each parent is beneficial for children. In many of the cases where this situation will work out well, the parents are able to come to an agreement on their own terms without significant intervention by the family court system. However, these positive effects are mediated by the level of conflict in a parental relationship. Violent relationships are the most extreme situation of "high conflict" and so in considering any arguments related to the benefits of joint equal-time custody, please remember that these benefits do not extend to the children of victims of domestic violence. Instead, these children may in fact be further hurt by legislation that promotes equal-time parenting and increases the access of batterers to their children.

Please consider the need to increase the protection of domestic violence victims and their children in any custody legislation. Thank you.