

## Commentary on HB6267, from an Experienced Custody Evaluator

My name is Barbara P. Berkowitz, Ph.D., a Licensed Psychologist in CT since 1982, and with prior post-doctoral experience as a Licensed Psychologist in California. In all, I am in my 43<sup>rd</sup> year of post-doctoral experience, and have been performing child custody and child protection evaluations since approximately 1978. I have been privileged to work with many struggling families and the legal counsel representing them, in an effort to assist those families in working through complex issues involving the determination of the parenting access plan in their children's best psychological interests. Although I am unable to attend today's Legislative Hearing, I hope to provide you with some helpful input in writing. I am unable to be physically present due to testifying in two child protection trials in two different cities during the day, and Sabbath worship in the evening. Thank you in anticipation of your attention to my ensuing remarks.

As concerned legislators responding to constituent concerns, I can appreciate the seriousness with which you are all taking the issues before you. Family Court cases involving custody disputes are generally among the most heart-wrenching cases, because our most vulnerable future citizens—children—are involved due to their parents' choices, foibles, and disagreements. As an experienced custody evaluator, I—and most of my colleagues—understand our ethical and professional duty to heavily prioritize the best psychological interests of the children, and to be secondarily concerned about the adults—parents—involved. Our mission is to provide the most useful, professional, objective, and scientifically-based information possible for the consideration of the parents, attorneys, and judges involved in each case. In order to do so, I, and most of my colleagues, follow both the American Psychological Association [APA] Code of Ethics for our professional practice and the APA Guidelines for Conducting Child Custody Evaluations for this specific area of practice. The latter constitute an aspirational road map for providing objective, neutral, independent assessment services in an effort to assist families in crafting parenting access plans in the best psychological interests of their children. Each parent's positive qualities must be determined and considered, as must the potential psychological issues that may affect their parenting style and its impact on the particular child or children. Hence, individual psychological assessments are conducted, involving multiple data sources, on the parents and children. Sometimes stepparents also need to be involved, if it is a contentious post-judgment matter. Observation and analysis of parent-child interaction is also an essential part of the evaluation process, as is collateral contacts/information from such sources as pediatric care providers, educators, daycare providers, and any mental health professionals involved with family members within a reasonable period of the past—e.g. the past five years. Clearly, such an evaluative process is quite time-consuming and costly, as well as requiring highly specialized training, knowledge, and experience. The resulting lengthy, written reports generally detail the data gathered and data sources, providing analysis of each party's personality characteristics, parenting style, and relationship with the child or children, as well as with one another. Also included are respectful recommendations to the Family Court for the parenting access plan in the best psychological interests of the child or children, with cogent explanations for the particulars of that plan. There is a wide range of choices for parenting plans, and the reasons for choices in the child or children's best psychological interests are important to understand.

For the legislators' understanding, it is important to note that most divorcing parents are able to craft such a parenting access plan, prioritizing their children, WITHOUT needing to resort to highly contentious litigation and/or an arduous and time-consuming custody evaluation. Therefore, professionals like me end up working with only those families unable or unwilling to cooperatively craft such a parenting access plan. It is not surprising, then, for such parents to present with significant anger, distress, and animosity, all of which tends to psychologically blind them to objectivity about themselves, their soon-to-be-ex-spouse, their children, and/or the professionals with whom they need to work. Such professionals include Family Relations Officers, psychologists providing custody evaluation services, GALs, and judges. Any evaluation recommendations, GAL recommendations, and/or judicial decisions unfavorable to an emotionally distressed parent are likely to be perceived with suspicion, significant anger, feelings of being insulted, and a desire to blame. While those feelings can be readily understood, maintaining them over a period of time is unhealthy for the particular parent and their children, as well as highly unproductive in assisting the family in moving into a more positive future.

Some of these families are subsequently able to reach a settlement, in their children's best psychological interests, through CT's Special Mastering Program in the Regional Trial Dockets. In this program, a mental health professional and attorney team, one of each gender, works intensively with the parents and legal counsel in a one-day mediation process. The professionals involved do this difficult and sometimes exhausting work for no remuneration, foregoing other professional, income-producing work for the entire day. Despite the contentiousness involved in these families, statistics show that more than 80% of the mastered cases stay basically settled, an outcome highly likely better for the involved children. I am proud to have served in this program in Middletown, for many years.

Within a small minority of those unable to settle custody disputes, there is currently a group of parents pushing for different types of legislative reforms, including HB6267. Among the people in this rather small group, there are a significant number of parents who were provided the opportunity to work with various professionals, follow guidelines for safe, healthy contacts with their children, and work along a legitimate path towards the types of parent-child relationships which custody evaluators, mental health professionals, and courts have determined to be in their children's best psychological interests. Such relationships are also potentially in the best psychological interests of those aggrieved parents, if they can prioritize their children over their own needs, wants, and feelings. Those step-wise paths vary widely, dependent upon the case specifics, but may include having only supervised or otherwise limited parenting access, initially, while doing various types of work on one's parenting style, personality characteristics, and/or psychological issues. In professionally appropriate custody evaluation reports, all of these essential ingredients would be identified and explained. Unfortunately, the significant number of parents in the small group of distressed custody litigation participants has chosen to pursue a legislative agenda, rather than cooperatively follow the recommendations provided for them by Family Relations, psychologists conducting custody evaluations, and judges rendering decisions after lengthy courtroom proceedings.

Should the legislature, after careful consideration, decide to pass and enact a statute such as HB6267, it is most likely CT's children who will potentially suffer the most. The Department of Public Health [DPH] has long been in charge of investigation of claims against a variety of health care professionals, including psychologists providing custody evaluations. The mechanism for doing so is to gather appropriate information, and then obtain an independent, equally trained, knowledgeable, and qualified professional to provide DPH with a thorough review of the work performed by the particular custody evaluator. One of the reasons these reviews often take many months is that the psychologists agreeing to do the reviews must meet certain criteria: not be personal friends or former or current practice associates of the psychologist named in the claim; not have any relationship in past or present to the individuals—usually parents—making the claim; and to be willing to provide a rather time-consuming review for no remuneration. Since just about all of those psychologists providing custody evaluation services are in independent practice, this means a willingness to forego income-producing work in order to engage in many hours of public service. Some of us are willing to do so, albeit on a necessarily limited basis, and I have engaged in such reviews when asked. Those of us who do so believe it is important for us to provide quality-control monitoring for our own profession, and to provide DPH and claimants with public service.

From the data available from DPH, there have been relatively few complaints levied against psychologists in the past several years, compared to those made against other health care professionals. In part, the scarcity of such complaints may be a testament to the quality of care and services provided by licensed psychologists in CT. Reportedly, Commissioner Mullen, of DPH, would like to be able to provide some remuneration for psychologists willing to review complaints in child custody matters. She reportedly sought legislative approval to add \$5 to the yearly licensing fee in order to be able to do so, but has been turned down for that tiny increase three times. Perhaps, the legislature could reconsider approving this fee, so that it may be a bit easier for DPH to find qualified psychologists willing to do more reviews. Only those psychologists who also conduct child custody assessments have the knowledge, training, and experience to conduct such reviews. Those psychologists only providing clinical treatment are lacking in these areas, and are unlikely to be familiar with the APA guidelines for Conducting Child Custody Evaluations. To have non-qualified professionals

conduct such reviews is to do a grave disservice to DPH, the people of CT, the claimants, and the custody evaluators being reviewed. In medical cases, reviews are provided by physicians of the same or highly similar specialty, not by other types of physicians, for good reasons. Some of the suggestions contained in HB6267 reflect the desire to have laypersons serve on review panels, despite the absolute fact that laypersons, by definition, are not at all qualified or able to understand the professional, theoretical, and technical underpinnings of conducting such complex evaluation processes. Courts rely on a wide range of fact-finding procedures, one of which is expert witnesses. The key word here is "expert," and very few sensible individuals would want important decision-making processes to rely on laypersons without an appropriate understanding of the issues and processes being utilized. Custody evaluators are such expert witnesses.

It is also spuriously been insinuated that custody evaluators and GALs in CT are somehow colluding in child custody matters, for personal profit. Such insinuations are, to me, personally and professionally insulting slanderous, and without any foundation in fact. Custody evaluators have set fees and time-limited involvement with each family referred to them. I certainly know that my fees are set according to my professional experience, expertise, and competence. The business arrangements are kept entirely separate from the professional, evaluative work and eventual recommendations. From what I know through peer group meetings, most of my colleagues operate similarly. Our APA Code of Ethics and the APA Guidelines for Conducting Child Custody Evaluations specifically promote and require us to prioritize the psychological best interests of the children in each case, more so than those of the adults involved and/or the Family Court. That is certainly what I do, and what I know to be the practice of most of my colleagues. From many laypersons' perspectives, we probably seem like highly paid professionals. If that is the case, it is because of the many years of study and qualification undergone in order to become highly skilled, doctoral-level professionals with additional, specialized training. Thus, we have earned the privilege to earn well. Many of us, including me, also provide lower cost services in child protection cases or custody evaluation services for individuals who cannot afford usual and customary fees. I do so, and so do some of my colleagues, in order to provide a public service to a wider variety of people in need. For a small group of distressed and angry people to castigate us as only being interested in what they consider to be exorbitant fees and some sort of fantasized collusion with people in other professions is ridiculous, personally denigrating, and potentially harmful to our professional reputations. Such insinuations also provide a false and damaging depiction to the general public. It is very disheartening to me to have this small group of angry individuals absorbing so much time and attention in the public media, on internet blogs and negative websites, and in the legislature. We have so many pressing needs and issues in our state, which are worthy of legislative time and attention. Reforming a well-functioning DPH review process is clearly not one of them.

Thanks you for your time and attention to my statements and concern. I wish you Godspeed in your important work on behalf of the people of CT.

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