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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
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PENNSYLVANIA COMMISSION ON CRIME &
DELINQUENCY (PCCD), *COMMISSIONER*

House Judiciary Committee Public Hearing

House Bill 1499

140 Main Capitol

Harrisburg, PA 17120

October 5, 2026

10:00 a.m.

Agenda

Opening Remarks

Representative Tim Briggs, Majority Chairman
Representative Rob Kauffman, Minority Chairman
Representative Jamie Flick, Prime Sponsor of HB 1499

Panel One

Judge Mica Pence, Family Court Judge, 43rd Judicial Circuit, Kentucky
Judge Daniel Clifford, former Chair of the Supreme Court Rules Committee on Family Law,
Judge, Montgomery County Court of Common Pleas
Judge Tarah Toohil, former member of the House of Representatives, State Advisory
Committee on Domestic Relations Law, Judge, Court of Common Pleas, Luzerne County
Questions for Panel One

Panel Two

Lila Slovak, Philadelphia Office Director, Women's Law Project
Frank Cervone, Esq., former director, Support Center for Child Advocates, former chair,
Pennsylvania Children's Trust Fund
Candice Komar, Chair of Family Law Section, PA Bar Association
Questions for Panel Two

Panel Three

Kelsie Massini, Legal Policy Manager, Pennsylvania Coalition Against Domestic Violence

Danielle Pollack, Policy Manager, National Family Violence Law Center

Kathryn Sherlock, BSN, RN, LNC, Founder/CEO of Kayden's Korner Foundation

Questions for Panel Three

Closing Remarks

Representative Rob Kauffman, Minority Chairman

Representative Tim Briggs, Majority Chairman

And any other business that comes before the Committee.

Adjournment

Summary of Testimony

Judge Mica Wood Pence, 43rd Circuit Family Court Judge, Kentucky

SUBJECT: Public Hearing on HB 1499, Rights of Children - Ensuring Fairness in Custody Determinations

In 2018, Kentucky was the first state in the nation to implement a rebuttable presumption of joint legal custody and equal (50/50) time-sharing in 2018. From my perspective as a litigator and now as a judge, this will summarize the benefits we have seen in Kentucky since the Equal Parenting Presumption went into place; when the presumption does NOT apply, and how to apply best interest factors to overcome the presumption.

Kentucky Equal Parenting 50/50 Time-Sharing: Equalizing the Starting Line

The purpose of the Equal Parenting presumption is to ensure that favor is not given to either parent, but also to counter prior “standard” visitation practices that assume it’s best for a child to be with one parent during the week and one parent ONLY every other weekend.

This used to be a “ZERO SUM” game:

313 days of the year OR 52 days out of the year (every other weekend)

261 days of the year OR 104 days out of the year (every other weekend plus one day a week)

Why would a parent NOT Fight?? If you have a chance to see your child 72% of the time as opposed to 28%, what is the motivation NOT to litigate?

For the Sake of the child...

The good parents who decide NOT to fight the “standard” and not to fight for equal time often do so because they do not want to put their child through the Judicial process. They do not want their child to be interviewed by the Judge,

anxious and stressed about the outcome. Pennsylvania Civil Trial Lawyer, Greg Fellerman did not want his teenage children to be tossed into the court system. In his words, he thought he would make up for the lack of 50/50 time after they turned 18, and he had started to do just that... college visits, vacations, etc. Until the untimely death of his daughter. Now, he encourages Pennsylvania legislators to pass the 50/50 presumption that so “Good parents” aren’t forced to fight in the justice system or miss out on days of their children’s lives they can never get back.

There was not only an assumption that a child should be with the Mother, but that it is better for a child to spend a majority of time in one home, having a “true home;” and that this provided more stability for a child and was better for their overall development.

Equal Parenting is generally better for a child’s overall well being

Studies show that a child’s overall well-being is better when the nuclear family is together, but when the parents’ relationship dissolves, Shared Parenting is more beneficial for a child than living primarily with only one parent. (“Systematic Review and Theoretical Comparison of Children’s Outcomes in Post-Separation Living Arrangements,” PLoS One, Laura Vowels, 2023). Vowels details the resources and support a child has when they spend an increased amount of time with BOTH parents. For more peer reviewed articles and data on child well-being: <https://www.sharedparenting.org/articles/#childwellbeing>.

Equal or Shared Parenting actually increases the BOND BETWEEN BOTH PARENTS and the child. Both parents are equally responsible for daily caretaking tasks and discipline. It’s not Disneyworld at one house and homework at the other.

The PARENTS and NOT the Court make the decision

I always tell parents, I can listen to you testify for 2, 4, 8 hours, and I will never know your lives, your schedules or your child as well as you do. I want the parents to make the decision about what is best for their child, NOT the COURT.

"In many ways, like it or hate it, the presumption of equal timesharing has eliminated a lot of arguments about whether or not equal timesharing is the right answer. Parties know about the presumption; if they don't, then we discuss it right away. The discussions now turn around how to make equal timesharing work, as a practical matter, considering the parties' schedules and living situations." - Lucinda Masterton, a Mediator and Retired KY Family Court Judge

At this point, now that litigants and attorneys have adjusted to the presumption, the litigation in my court has reduced. I rarely have full day trials over time-sharing issues. The Attorneys, my staff attorney (trained mediator) or myself, as Judge, start with the parents' work schedules and availability, then go to who is available to meet the child's needs of getting to and from school, etc., and develop practical parenting schedules. When we do have to litigate, it is often single issues, such as where a child will attend school, especially if the parents live an hour or more apart... The presumption works fine to minimize conflict in what I'd characterize as 'normal' cases. The devil is definitely in the details when the parties live far apart."

In addition to the challenges of long-distance parenting, there is the concern about families that are not equipped to co-parent, e.g., where there has been a history of domestic violence or child abuse. Kentucky's presumption does not apply as to a parent against whom a domestic violence order is being or has been entered. KRS 403.315. Recent legislative enactments in 2026 have tailored this further.

50/50 DOES NOT APPLY WHEN:

- Domestic Violence has occurred

- One parent is UNFIT
- One parent has abused or neglected the minor child
- It is NOT in the Best Interest of the Child at Issue

Kentucky Standard; Equal Parenting Time:

(3) In making a determination of custody, the court shall, **prior to consideration of any other factors** enumerated in subsection (4) of this section:

(a) Consider any allegations of:

1. Domestic violence and abuse as defined in KRS 403.720; or
2. An abused or neglected child as defined in KRS 600.020;

committed by one (1) party against another party or a child of the parties; and

(b) Make written findings on the record as to the impact, if any, of the allegations described in paragraph (a) of this subsection on the child.

Ky. Rev. Stat. Ann. § 403.270 (West) (emphasis added)

Domestic Violence also REVERSES the presumption; effective July 15, 2026

(2) There shall be a presumption, rebuttable by a preponderance of the evidence, that joint custody and equally shared parenting time is not in the best interests of the child if the court finds that a party has committed two (2) or more acts of domestic violence and abuse as defined in KRS 403.720 against another party.

(3) (a) The court shall not make an award of custody or grant unsupervised visitation with the child to a party who is found to have committed two (2) or more acts of domestic violence or abuse as defined in KRS 403.720 against another party unless that party has:

1. Completed:

a. A batterer's intervention program provided by a certified provider pursuant to 920 KAR 5:020;

b. Parenting classes; and

c. Substance use and mental health assessments and any recommended corresponding treatments; and

2. Participated in supervised visitation.

Ky. Rev. Stat. Ann. § 403.315 (West)

Litigators have been concerned about power imbalances if a survivor of domestic violence is afraid to end a relationship out of concern that the abuser could still receive equal timesharing and joint custody. While these recent statutory revisions offer strong protections for victims of abuse and accountability for perpetrators, it remains to be seen whether this will create incentives or disincentives for litigation. Recent statutory amendments in KY also added a best interest factor to consider whether a parent has “intentionally” and “maliciously” made false allegations of child abuse. KRS 403.270(4)(h).

HOUSE JUDICIARY COMMITTEE SUBCOMMITTEE

TESTIMONY ON H.B.1499 "EQUALITY IN PARENTING TIME"

HONORABLE TARAH C. TOOHL

HONORABLE ALITA A. ROVITO

**CO-CHAIRS, FAMILY LAW SECTION, PENNSYLVANIA CONFERENCE OF STATE
TRIAL JUDGES**

October 5, 2026

Thank you for the opportunity to appear before the Committee today to discuss House Bill 1499.

By way of introduction, I am Judge Tarah C. Toohil and I was elected to the Bench in Luzerne County in 2021 following 11 years as a member of the Pennsylvania House of Representatives. In that capacity, I served as Vice Chair of the House Children and Youth Committee. I also served on the Government Oversight, Human Services, Judiciary, Professional Licensure and Rules Committees. I currently serve on the Joint State Government Commission Domestic Relations Advisory Committee.

My colleague, Judge Rovito, was elected to the Chester County Court of Common Pleas in 2021 following a 28 year career as a record family court hearing officer, a custody conciliator, a parenting coordinator, guardian ad litem and private practitioner in Pennsylvania. She is a member of the Education Committee of Pennsylvania Conference of State Trial Judges. She currently serves on the Supreme Court Domestic Relations Procedural Rules Committee and on the Joint State Government Commission Domestic Relations Advisory Committee.

Our prepared remarks today are made in connection with our unique familiarity on the subject matter, about which we have acquired significant knowledge and expertise through the course of our nearly 35 years of combined family court experience.

The opinions expressed in the prepared remarks are our own and do not reflect the views of the Supreme Court, the Court of Common Pleas of Chester and Luzerne County, the Supreme Court Rules Committee or the Administrative Office of Pennsylvania Courts.

We appear in our capacity as the co-chairs of the Pennsylvania Conference of State Trial Judges, Family Court Section. Our Section meets twice a year and consists of over 220 Judges that have assigned family court responsibilities in our 67 Counties.

The contents of HB 1499, and the previous HB 1397 of which I was a co-sponsor, was discussed at our most recent meeting, in July 2026, and our remarks to you today are consistent with the opinions that were expressed from Judges across Pennsylvania who were present at that meeting.

We share the concerns that have been expressed by the Pennsylvania Bar Association and the Pennsylvania Joint State Government Commission, that there should not be a presumption of 50/50, equal parenting time, in every child custody matter.

HB 1499, as proposed, fails to recognize the uniqueness of every family in Pennsylvania by establishing a presumption of shared parenting. Although it may not be the intention of the legislation, it will serve to further burden the Family Court system as parties attempt to overcome the presumption based on the actual lived experiences of the parties and their children.

Every custody case that will come into the family court system, based on these changes, would essentially mandate a full-blown custody trial, at the earliest stages of litigation, due to the requirement for a full hearing in order to establish an interim order to meet the requirements of the statute (§5325(b.1)(4) and the clear and convincing evidence burden to overcome the presumption of shared custody. With nearly **forty thousand (40,000)** filings each year, many counties struggle with holding a final custody hearing after the filing of a pleading under the current 180-day time requirement. In addition, the type of evidence necessary to meet the clear and convincing mandate may require more time to accurately develop, especially for self-represented litigants, leaving the court without the necessary information to make a proper custody decision within the time requirements of the rules.

The issue of presumptions in child custody cases has been a subject of extensive discussion throughout the years. We firmly believe that the current language in the Statute, "*there shall be no presumption that custody should be awarded to a particular parent*" is worded precisely the way it should be worded and, in practice, has served families involved in the family court system well.¹

As any seasoned colleague on the Family Bench will tell you, "no two families are exactly alike". The "one size fits all" approach does not work for every child. Consistent movement between two

¹ "A presumption itself contributes no evidence and has no probative quality. It is sometimes said that the presumption will tip the scale when the evidence is balanced. But, in truth, nothing tips the scale but evidence, and a presumption - being a legal rule or legal conclusion - is not evidence. . . In deciding a child custody case, one should avoid the use of a 'presumption', which tends to focus the analysis on the respective rights of the parties rather than on close scrutiny of all the particular facts relevant to determine what will serve the child's best interest." *In re Custody of Hernandez*, 249 Pa. Super. 274; 376 A.2d 648 (1977).

households, sleeping in a different bed every two days or every other day to satisfy equality in parenting time, is not something every adult could readily adapt to; let alone every young child.

The legislature has thoughtfully and deliberately considered the custody statute two times over the last two years, in 2024 with the advent of the statutory changes to the factors to consider the safety of the child ("Kayden's Law") and in 2025 to streamline the factors to allow for appropriate consideration of all the aspects of a child and his/her family's life and to avoid repetition. These specific changes recognize the diversity of our state and require the court to consider each family, their dynamic and what is best for the most vulnerable of all citizens. The factors are a child-centric way to analyze the specific facts and circumstances of each family rather than to assume all parents and children are equal.

There is nothing in the statute to prevent shared custody when it serves the best interests of the children based on the facts of case. However, to presume shared is appropriate for all families ignores the very real-life concerns of logistics, work schedules and practicality. The factors permit a court to consider what is best for the child from the child's viewpoint, such as whether spending up to an hour or more "commuting" to school fifty percent of each week, based on the location of the residences of the parents, or whether or not a relocation necessitated by employment or economic circumstances (both of which are likely out of the control of the parent) is permitted just to satisfy the equality of parenting time presumption.

While there may be instances, here and there, where a particular litigant may have been dissatisfied with the result in their case, we know that our Family Court colleagues approach the responsibility of determining custody thoughtfully and, by the way, thoroughly by virtue of the 11 Factors that are already set forth in the Statute.

Most of us involved in family court remember the days when a judge might issue a three-line Order: *"primary to mother and every other weekend to father"*, and that was it. The Factors, instituted *via* collaboration with the Joint State Government Commission and legislation from this Committee, now require every judge, in every case, to stop, think and fully explain every aspect of their custody decision. As a result, the Factors act to protect every family against both a one or two sentence order, *and* any pre-conceived presumption that a litigant may feel exists in their individual case. It further requires the judge to justify their decision in a case based on the evidence presented so that the matter, if necessary, can be reviewed on appeal.

It is important to note that many of the custody cases that arrive before us do not involve an "intact family", where both parents have resided together with the children for many years and have essentially had *de facto* equal time, or at least equal access, to the child. A large percentage of our custody cases involve a parent who may not have seen the child for a considerable time period, issues of drug and alcohol abuse by one or both parents, parents who may have never lived together, let alone parented together, issues of neglect (where grandparents and other third parties have assumed care out of necessity) and domestic violence. The institution of the factors, especially those

added with the 2024 Kayden's Law amendments, has required the court to carefully weigh and consider the safety of the child, and not just physical safety, but emotional and psychological safety which rarely if ever leaves outward scars but can be as damaging, if not more so, than physical harm. These cases would **not**, and should not, lend themselves to the presumption of equal parenting time. The concerns over the imposition of a 50/50 presumption, also lead us to what we, as Judges, anticipate will be the eventual impact, if this legislation is enacted, not only on the custody docket, but the entire Family Court docket as custody litigation will increase taking time and resources away from other family court matters.

Imposing a 50/50 presumption at the outset of the proceeding would serve to diminish, if not terminate, alternative dispute resolution measures such as conciliation and mediation programs, that enable parents to successfully resolve their issues without litigation and take an active role in the process.

As proposed, the revision to Section 5323(b.1) would allow custody decisions to be made on the face of an affidavit alone (§5323(b.2), require the court to "confirm" an agreement is in the best interests of the child(ren) (§5323(b.1)(1)(iii)², require the Court to "include specific findings of fact and conclusions of law" (§5323(b.1)(4), delineate the reasons for its decision in an award of custody, *including an interim award* in a written opinion or order. [T]he opinion and order shall include, with specificity, the reasons for any deviation from equal parenting time" (§5323(b.2)(d)). This particular section, §5323(b.2)(d) removes the ability of the court to engage with the parties directly, or shortly thereafter, and for the Trial Judge to explain their factor analysis on the record. Again, the ability to state the basis for the decision on the record, which is still a writing when transcribed, gives the parties an immediate answer and frees the court from putting in a separate writing what can be said directly to the parties in open court. Further, the insertion of the requirement "*in an interim award*", implies that there is an expectation that there would need to be an initial proceeding upon the filing of every new custody case. If so, this would require a Judge to not just make an initial determination in every custody case that is filed but would also require that it be supported by a written opinion or order. The presumption will likely result in the court being required to do a clear and convincing analysis not only at the beginning of the case, but also at the conclusion of a custody case (after hearing all the witnesses and evidence at an evidentiary hearing).

Attached to these Remarks is a Summary of the total number of custody cases filed in 2025, both statewide, and in each individual county. The number of case filings is staggering. Many of these cases involve an ever-growing volume of self-represented litigants which adds significant additional time management elements to the administration of cases.

It is important to remain mindful that, in addition to all of these custody petitions/filings being filed, Judges in highly populated Counties sitting in a designated "family court division" already have a

² This would require an unnecessary court appearance for the parties and their attorneys despite reaching an agreement resulting in a disincentive to litigants to resolve their matters outside of court, creating more litigation and conflict.

large existing docket of pending custody cases in addition to other responsibilities in Family Court *via* child support, divorce, equitable distribution and protection from abuse matters. Many counties as well as those less populated counties, in addition to existing custody/family court cases, a Judge may have responsibilities in criminal, civil, orphans' and juvenile court matters. Adding more layers of custody litigation, without additional personnel, will have a direct impact on judicial resources in all counties.

Systemic of family court, there are many custody cases which come before the court to address the modification of an existing custody order. We cannot ignore the fact that these cases already represent a significant portion of our existing case load, some requiring an urgent need of our attention, and Court time, due to issues of substance abuse, neglect or domestic violence. While the presumption of equal custody time would presumably not apply to those cases looking backwards, it will apply to cases looking forward. There is a distinct possibility of a deluge of Petitions to Modify being filed based on the presumption resulting in a disruption of a custody schedule that has been successful for the parties and, most importantly, for the child(ren), in order to be "fair".

We also have concerns that the proposed legislation would require that the presumption of equal parenting time be rebuttable by "*clear and convincing evidence*".³ This requirement is a higher level of persuasion, requiring a greater degree of believability than the common standard of proof in a custody case. We believe that requiring a Court to apply this high of an evidentiary threshold in every child custody case is not appropriate and will run contrary to the long-established criteria in a custody case for the Court to act in what is "in the best interest of a child(ren)". In essence, it will serve to elevate the Court's analysis to what is "best for a parent" as opposed to what may, in the Judge's time-tested opinion, be "best for a child(ren)".

A presumption of shared custody presumes that every parent wants or is even able to exercise shared custody which may not be that family's reality. Many litigants are motivated by financial incentives to reduce their child support obligation.

The clear and convincing standard is also higher than the standard required in a Protection From Abuse matter and may result in disparate treatment of the findings in those matters as applied to custody cases throughout the Commonwealth.

Lastly, we note the proposed legislation seeks to eliminate the 11 factors completely, denying litigants and the courts guidance as to the impact of facts if the presumption of shared is overcome.

³ Of the seven states that have the presumption, only 2 of those states have a clear and convincing evidence standard, the second highest burden of proof in the legal system. Many of the states have factors for the court to consider.

Thank you for receiving our remarks on this proposed legislation.

Respectfully submitted,

/s/Honorable Tarah C. Toohil

Honorable Tarah C. Toohil

Co-Chair, Family Law Section PCSTJ

/s/Honorable Alita A. Rovito

Honorable Alita A. Rovito

Co-Chair, Family Law Section PCSTJ

Exhibit "A"
Testimony of Judges Rovito and Toohil
New Custody Cases Filed in Pennsylvania by County 2025

County	2025 Custody Filings		2025 Custody Filings
Adams	303	Juniata	29
Allegheny	3,007	Lackawanna	378
Armstrong	124	Lancaster	712
Beaver	679	Lawrence	161
Bedford	80	Lebanon	248
Berks	664	Lehigh	1,137
Blair	497	Luzerne	967
Bradford	256	Lycoming	420
Bucks	1,259	McKean	118
Butler	331	Mercer	288
Cambria	303	Mifflin	232
Cameron	15	Monroe	725
Carbon	226	Montgomery	3,723
Centre	335	Montour	39
Chester	1,175	Northampton	838
Clarion	94	Northumberland	751
Clearfield	133	Perry	107
Clinton	100	Philadelphia	7,529
Columbia	207	Pike	106
Crawford	472	Potter	76
Cumberland	970	Schuylkill	455
Dauphin	863	Snyder	75
Delaware	1,328	Somerset	233
Elk	93	Sullivan	8
Erie	1,040	Susquehanna	69
Fayette	245	Tioga	87
Forest	7	Union	84
Franklin	228	Venango	68
Fulton	33	Warren	141
Greene	63	Washington	269
Huntingdon	85	Wayne	210
Indiana	137	Westmoreland	677
Jefferson	216	Wyoming	40
	15,568	York	1,416
			22,416
	15,568		
	22,416		
Total	37,984		

Source: Child Custody Caseload 2025, Administrative Office of Pennsylvania Courts (AOPC).



**TESTIMONY ON HOUSE BILL 1499
BEFORE THE PENNSYLVANIA HOUSE JUDICIARY COMMITTEE**

**By Women's Law Project
Lila Slovak, Director of the Philadelphia Office
October 5, 2026**

Thank you for the opportunity to testify today. My name is Lila Slovak, and I am speaking on behalf of Women's Law Project, where I serve as the Director of our Philadelphia office.

Women's Law Project (WLP) is a Pennsylvania-based public interest legal organization that engages in impact litigation, policy advocacy, direct legal assistance, and community education to advance the rights of women, girls, LGBTQ+ folks, and their families in Pennsylvania and beyond. Through our intake line, WLP receives frequent calls from individuals across the Commonwealth seeking help with custody, divorce, and interpersonal violence, many of whom cannot afford legal representation.

Today, I am here to oppose HB 1499. Our position is informed by more than five decades of working directly with thousands of survivors, advocates, and families navigating Pennsylvania's family law system.

Protect the Best-Interest-of-the-Child Standard and an Individualized Approach

Since 2001, WLP has tracked and analyzed proposals to establish a presumption of joint custody in Pennsylvania, and we submitted testimony opposing such legislation in 2001, 2009, and 2019. Like the previous bills, HB 1499 would impose a misguided conception of gender equality at the expense of the safety and well-being of children and victims of abuse.

Pennsylvania's current custody law requires courts to determine the best interest of the child by considering at least 15 specific factors, such as which party is more likely to ensure the child's safety, and present and past abuse committed by a party or member of the party's household.¹ HB 1499 would replace this individualized, safety-focused approach with a dangerous 50/50 shortcut.

The irony of this proposed change to longstanding best practice is that it would introduce the potential for further harm to children already experiencing high-conflict parental separation, because only the highest conflict cases end up in court. Approximately 90% of custody cases are resolved outside of court.² The remaining 10% require court intervention because parents cannot agree on a custody arrangement. These cases are more likely to involve serious conflict, including violence and abuse, making a 50/50 presumption particularly ill-suited. At all times,

¹ 23 Pa. Cons. Stat. Ann. § 5328(a).

² Dorothy R. Fait, Vincent M. Wills & Sylvia F. Borenstein, *The Merits of and Problems with Presumptions for Joint Custody*, 45 Md. B.J. 13 (2012) (noting that approximately ninety percent of custody cases settle and that the minority of litigated cases generally involve high conflict between parents).

and especially in high-conflict cases, the child's safety and stability should be driving the judicial inquiry.³

Protecting parents and children navigating family court from abuse and violence is a critical part of WLP's work. Through our helpline and referral services, we hear firsthand what families are facing. WLP receives requests for help from hundreds of people across the Commonwealth each year. About 20% of these requests relate to custody matters. In many of those cases, the caller discloses domestic or sexual violence, and that reflects only those callers who felt safe enough to share their experience.

In recent months, we have heard from callers about:

- Children who disclosed during forensic interviews that they witnessed horrific abuse against their mother while going through custody and divorce proceedings.
- Victims who, when they tried to leave abusive marriages or relationships, received threats from abusers threatening to take full custody of their children if they left.
- Parents who, after leaving abusive relationships, continued to receive threats and experience stalking from their abusers, and who feared that a court-ordered 50/50 custody arrangement would mean never seeing their children again because of the danger they would be placed in.

I have stood beside a mother in custody court, who still bore visible, finger-shaped bruises on her neck from an encounter with the father of her child at the last custody exchange. I supported her while the custody master dismissively called the case a matter of "he said she said" and ordered joint custody. Parents should not have to put their life at risk just to see their children, and our custody laws should not endorse such a system.

The 50/50 Presumption Would Further Exacerbate Existing Barriers Victims of Abuse Face When Seeking Support

While supporters of HB 1499 argue that evidence of domestic violence can rebut the 50/50 presumption, this simplistic argument overlooks the significant barriers survivors face inside and outside of court. An entire field of study is dedicated to understanding perpetrator tactics, the cycle of abuse, and why victims are often trapped in violent relationships. Again and again, we see that when victims report abuse, they are not believed. They continue to be dismissed, and blamed for the harm they experience.⁴

³ Nicole E. Mahrer et al., *Does Shared Parenting Help or Hurt Children in High Conflict Divorced Families?*, 59 J. Divorce & Remarriage 324 (2018).

⁴ See Deborah Epstein & Lisa A. Goodman, *Discounting Women: Doubting Domestic Violence Survivors' Credibility and Dismissing Their Experiences*, 167 U. Penn. L. Rev. 399 (2019).

In fact, one study found that women who allege abuse in custody proceedings are more likely to *lose* custody.⁵ Yes, you heard me correctly: if HB 1499 becomes law, and a victim of abuse attempts to overcome the 50/50 presumption with evidence of her abuse, she is more likely to *lose* custody. And if she alleges abuse of her *child*, the same study found that courts are even less likely—2.23 times less likely—to believe her testimony.⁶

Under real-world circumstances, requiring clear and convincing evidence to rebut the 50/50 presumption is unconscionable and, in the gravest cases, it could be a death sentence.

Uptick in Perpetrators Using the Legal System to Exert Power and Control

In addition to the barriers survivors of domestic violence would face in rebutting the presumption, WLP has observed an increase in perpetrators using the legal system as a tactic of abuse. Perpetrators are increasingly threatening or filing defamation suits when survivors speak out or seek help; they are cross-filing protection from abuse petitions to distract and confuse the court; and they are suing survivors' attorneys to drive up costs and undermine their access to counsel. HB 1499 would provide perpetrators with yet another tool they could use to manipulate and exert control over victims. No parent wants to gamble with their child's safety or wellbeing. A difficult-to-rebut 50/50 presumption could be wielded as leverage to discourage survivors from seeking custody court intervention and relief, from reporting abuse, and from seeking other legal protections, or to pressure them into unfavorable or unsafe agreements.

Conclusion

We know custody disputes are difficult for any parent, and do not question the sincerity of parents seeking more time with their child. A cookie-cutter statutory presumption of 50/50 custody, however, is not the right answer, and it is a potentially dangerous one.

If the General Assembly seeks to improve Pennsylvania's custody court system, it should focus on the real needs we hear about from parents every week. In particular, parents need access to free or low-cost, competent legal advice and representation to navigate the daunting and high-stakes custody process.

We join family-law attorneys and domestic violence advocates and urge you to reject HB 1499. While it may sound reasonable in theory, HB 1499 is an insidiously dangerous bill that would, in reality, threaten children's safety in the name of gender equality. We urge you to put children first, not a formula. We urge you to keep the individualized, best-interest-of-the-child analysis that Pennsylvania law currently requires, and not replace it with a state-mandated one-size-fits-all approach.

⁵ Joan S. Meier et al., *Child Custody Outcomes in Cases Involving Parental Alienation and Abuse Allegations*, 42 J. Soc. Welfare & Fam. L. 92, 96 (2020).

⁶ *Id.*

**GENERAL ASSEMBLY OF PENNSYLVANIA
HOUSE JUDICIARY COMMITTEE
October 5, 2026**

KEEPING CHILDREN AT THE CENTER OF CUSTODY PROCEEDINGS

Testimony of Frank P. Cervone, Esq.

I have appeared before this Committee and other gatherings of the General Assembly many times over more than three decades. I am pleased to appear today solely in my personal capacity as a longtime child advocacy practitioner. I previously served for 33 years at the Support Center for Child Advocates (*Child Advocates*), Philadelphia's lawyer pro bono program for abused and neglected children. I have also served as chair of the Children's Trust Fund, chair or member of advisory bodies of the Joint State Government Commission, local and statewide Juvenile Courts and child welfare policy and training programs. I have tried to serve as a resource for this Legislature and its staff, and I thank you for the invitation to serve in this role once again. I always attempt to offer you a balanced, candid and constructive assessment of what our children need and how we are all doing for our kids.

At *Child Advocates* we developed a model known as "child-centered advocacy". It places the child in the center of a wheel, with all of the supports, services and parenting as spokes and extended circles. I am going to talk about bias today. Bias is a tendency—often unconscious—to favor or disfavor an idea, person, or group. In transparency, my own bias is toward children's rights, child-centered thinking and child-centered laws.

A children's rights, trauma-informed perspective reframes custody statutes as children's rights instruments, not just sources of parental entitlements. Laws should emphasize: the child's needs, especially for the very young, as well as their voice and participatory rights; the child's schedule, especially the healthy dimensions of routine and stability; the need for statutes to integrate developmental science, including age-specific needs, attachment, and each child's key milestones, transitions and individual needs; and the long-term trauma impacts of forced contact with unsafe or unresponsive parents. Respectfully, House Bill 1499 fails that test.

Child-centered thinking seems to be at the core of human experience. Adults have, or should have, an inherent responsibility to care for their young. Making children the center of attention and respect, as a societal or legal priority, likewise should be a goal shared across families, systems and governments. Yet notwithstanding the ubiquitous "best interests of the child" standard that appears in so many areas of the law, children are often kept out of the equation of decision-making. That's happening here.

With its presumption of 50-50 custodial time, House Bill 1499 presents itself as a child-centered bill. The lead sponsor Rep. Flick has observed: "This is not a bill about parents," he explained. "It's a bill about children. And children do best when both parents are part of their lives."

Actually, Representative Flick has a good point: in many cases children do well with both parents in their lives. Studies show there can be benefits of substantial time with both parents. However, here we are invited to ask a more specific question: does every child do best when both parents are part of their lives, in equal measure, and possibly without other meaningful information or limits? I think not!

I like "reality checks" when I am testing policy recommendations: HOW DOES THIS WORK IN PRACTICE? I would venture that every person in this room can name one situation that they know personally, where the child would NOT do better if a certain parent had more time or a greater role in

their child's life. One-size-fits-all can be harmful when it comes to children – that's why custody determinations should continue to be individualized.

Child-centered thinking places the child at the center of the custody inquiry: what does THIS child want and need? Here we should ask: WHO IS THE CUSTODY SCHEDULE SERVING?

Typical shared-physical custodial arrangements have the child moving back and forth between the parents' houses: in the language of the Act, "primary physical" = "majority of time" and "partial physical" = "less than majority of time". A common scenario has the child at one parent for some or all school nights, and the other for some/most weekends. Often, the child moves back and forth several times during the week, or every other week, and on most weekends, each and every week. 50-50 arrangements generally maximize the number and frequency of moves.

Folks often dismiss the problems inherent in these shared-time experiences. We say: "My child needs more time with me." "It's OK. Moving back and forth doesn't really bother her. She has her own room in each house." Being more candid, I'd observe: 50-50 primarily asks the CHILD to do a LOT of moving!

I like to use the custodial arrangement known as "nesting", not as a recommendation *per se*, but as a study-example of a child-centered approach. Nesting (as a model) means the child stays in one home, and the parents rotate in and out according to the custody schedule. It is often used temporarily during separation to stabilize the child's environment; I have close friends who did it for years. The child "stays put" and the parents move! To be clear, nesting is not very practical for many families, simply from a financial point of view: each parent needs a place to stay when they are NOT staying in the "nest" home. But by replacing the child-moving with the parent-moving, the model is useful to unmask elements of typical custody-sharing arrangements that fail to place the child at the center.

What happens when we minimize the child moving? We improve the child's continuity of sleep, routines, and school preparation. We increase attachment stability for preschool and early-elementary children. We reduce the child's stress and "backpack chaos" (i.e., lost homework, uniforms, devices). Stress is not good for anyone, but its really not good for children.

Again: WHO IS THE SCHEDULE SERVING? Custodial schedules are generally built more on what works for the parent than what works for the child. I have spoken to hundreds of children and young people about the experience of visitation and time-sharing of and with their parents. Almost always, they are reluctant to "throw one or other parent under the bus" by criticizing the arrangement. They tolerate the constant changes, the loss of personal space, the restrictions inevitably placed on friend-relationships and school activities. They often respect the desire of their parent to have parenting time. But do they like all the moving? My experience leads me to say: Not so much!

House Bill 1499 sets a presumption of 50-50 physical custody, or "equal parenting time". We all know intuitively how presumptions work: presumptions create their own bias – they always do! That's the point. They lean one way, on purpose.

Generally speaking, presumptions change the starting point, THEY TIP THE SCALE. But they do so without any facts. Here, the presumption starts with ONE fact: this person is the parent. And because he or she is the parent, 1499 would establish that they are entitled to equal time. Tellingly, that presumptive mechanism proceeds with NO FACTS about the child, and no facts about the relationship of either parent to the child, nor about their ability to parent or to co-parent. IF a party can demonstrate – by their litigation, by their experts, by their lawyering, and by the high bar of "clear and convincing evidence" – that a different schedule is needed, THEN the court might move from the

presumptive starting point. That just seems backward. A child-centered approach BEGINS by asking: WHAT DOES THIS CHILD NEED?

I offer three reality checks for your consideration:

- First, parent-as-stranger: a child has NO relationship with a parent who has been absent for some number of years. With the mere filing of a petition, that parent – possibly a virtual stranger to the child – gets presumptive 50-50 access, with overnights – with the other parent left to take on the fight. That’s pretty scary.
- Second, the household with unreported violence: with the unfortunate frequency of intimate partner violence (IPV), we are just beginning to understand the consequent impact on the child witness, who may also be an actual victim, for example in the compelling studies of Adverse Childhood Experiences (ACEs). Presumptive custody orders run past these details with dangerous speed. If harmed or threatened with harm, the child should be heard, protected, and not forced to return to or relive that harm.
- Finally, child support obligations are calculated based on custodial time, specifically, the number of “overnights” a child stays with one or other parent, as set forth in the court order. It is a little-studied phenomenon, perhaps infrequent but certainly familiar – dare I say, “dirty little secret” – that custody petitions sometimes come only after a petition for support has been filed by a custodial parent. The other parent files for and gets more time, and his/her financial obligation goes down. Months later, the newly-won overnights stop—custody is just too much trouble, the kids are resisting—but the Order that reduced the support obligation continues. I predict there will be a spike in custody modification petitions, and following, a spike in child support modifications, so that the child support burden on payors is reduced. Child support is another child-focused element, meant to meet the child’s needs. The law should take care to avoid rather than encourage this kind of manipulation.

“Best interests” analysis should remain context-sensitive, especially for: young children, children with special needs, and families with complex safety or mental health issues. And older youth should be given a voice – in fact, they DO have a voice in many cases, a voice that would be eroded by this bill. Kids have lots to say when asked!

As required by the statute, Pennsylvania courts currently evaluate custody using the “16-factors” model – the “numbering” has changed a bit over the years – as enumerated in 23 Pa.C.S. § 5328(a). The factors include which parent is more likely to encourage frequent and continuing contact with the other parent, the present and past abuse committed by either parent, parental duties performed by each parent, and the proximity of the parents’ residences. Stability and continuity for the child, sibling relationships, and the child’s preference (based on maturity), are part of the mix.

The recently-enacted Act 11 of 2025 actually improved the factor-analysis, with leadership provided by Rep. Krupa and Rep. Flick.

These “factors to consider when awarding custody” were created in a well-intentioned, thoughtful reform initiative that started more than 15 years ago. The mechanism is well-regarded by most practitioners and jurists. It has stood the test of time.

Courts have significant latitude in determining which factors deserve emphasis in any particular case. The standard of proof is “preponderance of the evidence.” There is no indication that courts are failing to comply with the law, which requires explicit on-the-record findings on all the factors. This

discretion allows judges to tailor custody arrangements to individual family circumstances. People are different, and one-size-DOESN'T-fit-all.

Unfortunately, under House Bill 1499, most of the factors set forth in §5328 are ELIMINATED! The much-lauded Kayden's Law protections are eviscerated. The analysis is reduced to the short summary list: "... including past abuse committed by a party or member of the party's household, the level of conflict between the parties and the willingness and ability of the parties to cooperate with one another."

HB 1499 purports to address so-called inconsistency in custodial rulings by establishing a clear, fair starting point. Rather than parents making the case envisioned by the best-interest factors—proving that they have the child's interests at heart, that they will participate in child-centered co-parenting, and that a particular schedule would be good or bad for the child—one parent has to DISPROVE the presumption, as if the law has already "made up its mind" ... which of course, it has.

The proponents call HB 1499 a "children's rights bill." This bill is on its face, gender-neutral. But the literature and the advocacy both tell us that it is a fathers' rights bill in disguise. And I don't mean to highlight this as a bad thing. Generally speaking, should fathers have more time? Mostly. The evolving context and changing roles where fathers are seeking to be more involved in their children's lives, is one with which we can all be comfortable. Have custody courts been historically biased in favor of mothers? Well, they sure used to be; query whether that is still true. The statute explicitly BARS custodial presumptions. I'd push back on the notion that judges "always favor mothers", and I believe a fair majority of practitioners would agree. Certainly, family economics and societal norms are way more diverse than they have ever been – making one or other outcome far less dominant.

We should also be candid that family strife – family violence, trauma history, economic disparity – complicates many custody cases. That stuff is often hard to prove, to bring "into the courtroom". Who suffers then? The CHILD rarely has any voice or power in those tussles.

The law should remain focused on keeping the child as the center of attention and at the center of the analysis. HB 1499 fails to do so.

Thank you.

* * * * *

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**TESTIMONY OF CANDICE L. KOMAR, ESQUIRE ON BEHALF OF THE
PENNSYLVANIA BAR ASSOCIATION**

**PUBLIC HEARING BEFORE THE HOUSE JUDICIARY COMMITTEE ON HOUSE
BILL 1499**

OCTOBER 5, 2026

Good morning, Chairman Briggs, Chairman Kauffman, and members of the House Judiciary Committee. Thank you for the opportunity to testify on behalf of the Pennsylvania Bar Association regarding the importance of principled, child-focused decision-making in custody cases.

The Pennsylvania Bar Association strongly opposes House Bill 1499, as we have historically opposed any bill that includes a presumption of equally shared custody.

Pennsylvania's current custody statute provides a strong legislative structure which requires principled, child-centered decision-making. House Bill 1499 would take this Commonwealth backwards by decades by abandoning that structure and implementing a return to presumptive decision-making. Pennsylvania has not applied presumptions in custody decision-making since 1977, when the Supreme Court of Pennsylvania held that the Tender Years Doctrine, which placed young children with their mothers, was unconstitutional.¹ Currently, the only statutory presumption that applies to custody decisions is a presumption in favor of parents over non-parent third parties.² And section 5327(a) explicitly states that in any custody action between the parents of the child, there shall be no presumption that custody should be awarded to a particular parent. In other words, parents come into custody court on equal footing in the eyes of the law.

About fifteen years ago, the legislature made a drastic change to the custody statute. In 2011, the statute was amended to include specific factors that the court is required to consider in every custody case in arriving at its determination of the best interests of the child. Prior to that time, the courts applied a "best interests of the child" standard, without further statutory guidance as to what contributes to or detracts from a child's best interest. The adoption of the factors has significantly shifted how custody decisions are made. The court is now required to consider and apply specific enumerated factors in every custody case, to provide the litigants with a decision

¹ *Commonwealth ex rel. Spriggs v. Carson*, 368 A.2d 635 (Pa. 1977).

² 23 Pa. C.S. 5327(b).



that explains how the court analyzed those factors. If a trial court ignores or misapplies the custody factors, its decision is subject to reversal on appeal.³

In fact, the custody factors set forth in the current custody statute are so critical to custody decision-making that, thanks to Representative Flick's amendment to Representative Hanbidge's HB 378 - which the PBA strongly supported - the court is now required to provide all parties with a list of the factors within 30 days of receipt of a custody complaint or petition to modify. This ensures that litigants are informed of these factors when presenting their custody cases.⁴ The requirement for the court to specifically consider and analyze the custody factors also acts as a strong check on the courts to ensure that custody decisions are made after considering all the evidence and weighing the factors on a case-by-case basis, and that overworked or inexperienced judges cannot simply take the easy way out and rule on a custody matter without doing a thoughtful analysis of the specific case before them.

While the PBA has a number of concerns about this bill, our primary, fundamental, concern is that it would represent a return to presumptive decision-making, rather than personalized decision-making. While 50/50 custody is certainly the best outcome for some families, it is not the best outcome for all families. If the legislature enacts a cookie-cutter presumption in the custody statute, it is choosing a decision-making structure which simply assumes all families and children are substantially similar, and which does not require the court to truly delve into each family's situation and consider what is best for the specific children involved.

As an attorney who has dedicated my practice to family law since 1986, I can tell you that families vary significantly. One case may involve older teenage children while another case may

³ *J.R.M. v. J.E.A.*, 2011 PA Super 263, 33 A.3d 647 (Pa. Super. 2011)(vacating custody order and remanding for further proceedings where trial court failed to consider 5328(a) factors and based its decision almost exclusively on the fact that child was breastfeeding and parties' difficulties in communicating); *A.V. v. S.T.*, 2014 PA Super 48, 87 A.3d 818 (Pa. Super. 2014)(where trial court's order granting mother's petition for relocation also altered prior physical custody agreement, trial court erred in failing to apply 5328(a) custody factors in addition to relocation factors); *S.W.D. v. S.A.R.*, 2014 PA Super 146, 96 A.3d 396 (Pa. Super. 2014)(father's petition for special relief placed issue of physical custody squarely before the trial court therefore its failure to address all of the best interest custody factors was an abuse of discretion); *C.A.J. v. D.S.M.*, 2016 PA Super 40, 136 A.3d 504, Pa. Super. 2016)(vacating custody order and remanding to trial court for further proceedings where trial court failed to mention half of the mandated custody factors in making decision to modify custody); *K.B. v. M.F.*, 2021 PA Super 38, 247 A.3d 1146 (Pa. Super. 2021)(trial court erred in denying mother's exceptions to hearing officer's report where report did not address 5328(a) factors, referred to previously repealed custody statute, and failed to consider well-reasoned preferences of older children); *McGee v. McDowell*, 2025 PA Super 52, 333 A.3d 383, (Pa. Super. 2025)(custody order vacated where neither hearing officer nor trial court conducted an assessment of the sixteen custody factors); *Curtis v. Curtis*, 2026 PA Super 142, 2026 Pa. Super. LEXIS 343 (Pa. Super. 2026)(vacating custody order and remanding for new trial where trial court applied outdated list of custody factors to father's detriment and failed to advise father of custody factors prior to trial).

⁴ 23 Pa. C.S. 5328(d).



involve babies or toddlers, or children with special needs. Some cases involve families where both parents have been extremely involved in parenting; some cases involve families where only one parent has taken on nearly all of the parenting responsibilities. There are cases where one parent may have a drug, alcohol, or mental health issue. There are cases where children may not get along with other stepchildren or stepparents in the home. Parents may live at some distance from one another, perhaps in different school districts. Parents may differ in their willingness and ability to support a child's educational, medical, or emotional needs. One parent may be significantly more available than the other to care for the children after school. There are a multitude of considerations that go into making a well-reasoned custody decision – but HB 1499 would simply gloss over all those factors and presume that 50/50 is the best custody arrangement for every case.

We are also greatly concerned about the proposed elimination of the custody factors. House Bill 1499 eliminates the current custody factor framework. As a result, the bill fails to require thorough analysis of important circumstances and considerations in custody cases. For example, the current statute requires the court to consider the need for stability and continuity for the child in their education, family life, and social life. This has been removed in HB 1499. Also eliminated is the requirement that the court consider the well-reasoned preference of the child, considering the child's developmental stage, maturity and judgment. Ignoring a child's preference would undermine a critical safeguard in custody proceedings by depriving courts of valuable insight into the child's view of his or her own life and sense of well-being.

The bill also eliminates important safety-related factors and utterly fails to emphasize the importance of the safety of the child, which is currently required by our custody statute through Act 8 of 2024. Those provisions, known as Kayden's Law, were passed by this legislature in response to the 2018 death of Kayden Mancuso. Kayden's Law confirmed that the factors regarding the child's safety are of increased importance, triggering a higher level of scrutiny for cases involving a history of domestic violence. Undoing Kayden's Law would place children at risk, particularly those children in vulnerable situations involving domestic violence and parental mental health or substance abuse concerns. These are all critical considerations in any well-reasoned custody decision, yet they are conspicuously absent from HB 1499, in favor of a "standard" presumption of 50/50 custody.

There are other aspects of HB 1499 which are also problematic. For instance, the procedure to seek temporary physical custody is likely unworkable, as it would require a hearing and findings of fact and conclusions of law before a temporary order can even be entered. This is simply not feasible in most counties and would create a lengthy backlog, leaving families waiting for a hearing with no temporary order in place. This may mean that one parent is not seeing the child



at all as they await a hearing. As another example, the term “partial physical custody” has been simply substituted with “shared physical custody” in the section pertaining to grandparent custody, which changes the grandparent custody portion of the statute significantly. In cases where grandparents would only have standing to ask for partial physical custody, under this legislation, they would now have standing to ask for “shared physical custody.” This may *sound* like a technicality, but in fact it’s a significant departure from the current law and will likely create a host of other unintended problems, including potential constitutional issues.

Ultimately, no matter what statute is in place, it’s important to be realistic about the fact that not everyone will walk away from their custody decision happy with the outcome. In most custody cases, at least one party will walk away feeling like they wanted more custody time. That is going to be the case no matter what decision-making framework is put into place. The question is, what decision-making framework truly requires a court to get to the heart of what is best for the specific children involved, in their specific family situation? It has been my experience as a family law attorney that the only way to do that is to require the court to look carefully at each situation, to analyze the specific custody factors, weigh the evidence concerning each parent’s ability to meet the children’s physical, emotional, developmental, and safety needs, and ultimately place the children’s safety and well-being first.

Our current custody framework prioritizes these principles; a presumption of equally shared custody does not. For this reason, the PBA strongly opposes HB 1499 and any legislation that would establish a presumption of equally shared custody. Thank you for giving us the opportunity to address our concerns with this legislation.



COMMENTS ON HB1499
BEFORE THE HOUSE JUDICIARY SUBCOMMITTEE ON FAMILY LAW
KELSIE MASSINI
LEGAL POLICY MANAGER
PENNSYLVANIA COALITION AGAINST DOMESTIC VIOLENCE
October 5, 2026

Thank you for the opportunity to testify about HB 1499. I am Kelsie Massini, Legal Policy Manager for the Pennsylvania Coalition Against Domestic Violence (PCADV), the membership organization for domestic violence programs in Pennsylvania. Our member programs provide a variety of services, including counseling, emergency shelter, and legal advocacy to domestic violence survivors in all sixty-seven counties throughout the Commonwealth. Part of my role at PCADV consists of overseeing our eighteen Civil Legal Representation (CLR) programs that provide free expert legal representation in civil legal matters to survivors of domestic violence. We recognize that leaving an abusive relationship is only the first step. Litigation can play an important role in helping a survivor achieve safety, self-sufficiency, and autonomy. That may take the form of a divorce, an award for financial support, custody of your children, filing a protection from abuse order, or any combination thereof. Before coming to work at PCADV, I worked for the Civil Legal Representation Project serving Franklin and Fulton Counties. As a CLR Attorney, I represented many survivors of domestic violence in contested custody matters.

PCADV has significant concerns with HB 1499, particularly the presumption in favor of 50/50 custody, the modification of §5328 custody factors, and the expansion of grandparents' rights. These proposed changes would create significant issues for the child custody process, making an already difficult process even harder, dividing families, and putting children at greater risk of harm.

I. The Presumption in Favor of 50/50 Custody

PCADV has historically opposed similar bill language and presumptions and we remain steadfast in our opposition. A presumption in favor of 50/50 custody would put the wants of the parent ahead of the needs of the

child. It shifts the focus to prioritizing parents' interests over what is best for the child. While we recognize that the relationship between a parent and child is fundamental, we cannot forget that the child is their own person. They are not a piece of furniture, or a pet, subject to equitable distribution as part of a divorce.

The current statute correctly puts the child first. It recognizes that the court must focus on each individual child and their individual circumstances and needs to make a custody determination based on their best interest. HB 1499, and its presumption in favor of 50/50 custody is fatally flawed because it instead shifts the focus to the parents. It limits judicial discretion and fails to acknowledge that there is not a one size fits all solution to custody. We would hope that every parent wants to spend as much time with their child as possible. However, contrary to what the proponents of HB 1499 would have you believe, it is not necessarily in the best interest of a child to spend an equal amount of time with both parents. There are a variety of factors that can make a 50/50 custody schedule impractical or harmful.

Compounding the problem is that this presumption can only be overcome by "clear and convincing evidence." The clear and convincing standard is the highest burden of proof in civil law, generally reserved for matters where there is an attempt to limit some significant individual rights or interest, such as termination of parental rights. This high legal standard makes little sense in custody actions as families are unique and different and they commonly require a custody award tailored to their specific situation and the individual needs of the child. The clear and convincing standard effectively makes it impossible to overcome the presumption. It would prohibit families from seeking creative custody solutions from the courts. To put this in perspective, the PFA Act uses the lower standard, requiring only a preponderance of the evidence.

As a result, if HB 1499 passes, the courts will be maintaining and/or establishing, custodial relationships/schedules at the expense of the child's physical, mental, or emotional well-being. There are certainly situations where a 50/50 custody schedule is in the best interest of the child, but that isn't always the case. Therefore it should not be the starting point. The child's best interest needs to be that lodestar.

II. Modification of the Sixteenth Custody Factor Under §5328

Equally concerning, this bill seeks to modify and essentially eliminate most of the custody factors under §5328. These factors are the foundation for custody determinations and best interest of the child analysis. Great care was taken in updating these factors through Kayden's Law, passed in 2024, and HB 378 passed in 2025. Many experts and stakeholders came together to work on those pieces of legislation to craft custody factors that would help courts make custody determinations. Specifically, those bills specified that substantial weight should be given to factors that affect the child's safety. HB 1499 would eliminate the substantial weight requirement.

The bill would be especially harmful in cases involving domestic violence. With Kayden's Law and HB 378, this legislature confirmed that increased weight and importance should be given to factors involving safety. These factors consider both abuse towards the child and abuse towards the other parent or household members. These changes were made based upon recognition of the tragedy and harm that can occur when the court does not adequately consider abuse and safety factors. Abuse in the home, even if a parent has not directly physically harmed the child, has been shown to have significant adverse effects on a child's mental, emotional, and physical development.

HB 1499 would impose a much lower standard regarding safety, and instead would prioritize equal time with the parents over the safety of the child and the child's wellbeing. Equal custody time would also increase the safety risks to survivors who leave an abusive relationship, as it would require more frequent custody exchanges and interactions with the abusive party. The unfortunate reality is that there have been instances in Pennsylvania where custody exchanges have turned deadly. If HB 1499 passes, domestic violence victims may unfortunately choose to stay in abusive relationships, believing that will allow them to protect their children more than a custody system that does not prioritize their safety. This certainly would not be in the best interest of the child.

Additionally, there are a plethora of reasons the parties may have entered into an order that provided for unequal parenting time that has nothing to do with the fitness or interest of the parents, for example, work/school schedules, special needs, child preference, family structure, etc. A lot of these reasons have to do more with the child than the parents and thus are often in the child's best interest.

III. Expansion of Grandparents' Custody Rights Under §5325

Finally, the proposed expansion of grandparents' custody rights under §5325 appears to be a solution in search of a problem. While there are issues with §5325 in its current form, HB 1499 is not the way to fix them. Indeed, it would make the current issues even worse and create significant new problems as well.

The purpose of §5325 is to help maintain relationships between grandparents and grandchildren that might otherwise be destroyed by death or family estrangement. However, while well-intentioned, §5325 is not perfect. The requirements for standing, *i.e.* the right to bring a lawsuit, under §5325 are astonishingly low. As such, §5325 seems to fly in the face of the nearly universal belief that a parent's right to the care and control of their child should be free of interference except for the other parent and/or in the event of abuse or neglect. §5325 is already regularly taken advantage of by abusers who go through their parents to gain access to a child they have been separated from due to their harmful behavior. That being said, this low burden for standing is tempered, and made acceptable, by the fact that an award of custody is currently limited to partial or supervised physical custody. As such, the potential level of access/interference is also rather low.

This bill would replace the term partial physical custody, which is specifically defined as "the right to assume physical custody...for less than a majority of the time" with shared physical custody. Meaning it would give grandparents the right to seek the same level of custody over a child as a parent, even when the parents are taking adequate care of the child. This would be a major and unwelcome change to the status quo. Indeed, given the bill proponents stated position as to the importance of the parent/child relationship, I am struggling to see why sponsors of HB 1499 would support a provision that would result in a dramatic increase in third-party interference between parents and children. The reality is that the proposed change will also make §5325 an even more popular tool for abusers and parents that may enable their behaviors.

IV. Conclusion

Child custody is always a challenging issue, especially when the courts are involved. Judges and legislators are human. As such, no law, or decision is perfect. However, with luck and the cooperation of people of goodwill, improvements can be made. Unfortunately, HB 1499 is not an example of an improvement. Indeed, it would be a significant step back. It would disregard the central focus of a child custody statute, the child. It would erase the

significant work that was done in enacting Kayden's Law and HB 378, and the recognition of the importance in giving substantial weight to factors that affect the safety of the child and parties. Instead, this bill would permit abusers and their enablers to manipulate the system and control their victims to an even greater extent. I urge the honorable members of this committee to vote against this bill.

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National Family Violence Law Center

THE GEORGE WASHINGTON UNIVERSITY

TO: Chairman Tim Briggs and House Judiciary Committee Members
FROM: Danielle Pollack, *Policy Manager, National Family Violence Law Center at GW*
RE: HB1499
DATE: October 1, 2026

Thank you Chairman Briggs and Members for inviting my testimony relative to **HB1499**. I have serious concerns about this legislation, which proposes a shared parenting presumption for Pennsylvania families,¹ and I would recommend a **NO** vote. While at first glance this proposal may appear to be simply encouraging parity between parents litigating child custody, it in fact it undercuts important protections for children, reduces judicial discretion, and overall is not in the best interests of children and families. This proposal is of particular concern where family violence is present in a litigated case (FV is alleged in approximately 75% of litigated custody cases),² and we know from research that family violence exceptions in shared parenting presumption laws are ineffective.³

By way of introduction, I am the policy manager at the National Family Violence Law Center at GW, which is the leading national research center providing select impact litigation and policy guidance to Congress and states for evidence-based family violence prevention and child safety policies for family law, especially private custody litigation. Included in our body of work is providing development and technical assistance for Kayden's Law, both the federal and state versions, as that adopted here in Pennsylvania. Internationally, in 2023, Kayden's Law was cited by the United Nations Special Rapporteur as a model good practice law to the UN Human Rights Commission, and currently other countries including England and Canada are relying on it as a model for their child safety reforms. This body adopted Pennsylvania's SB55 Kayden's Law with strong bipartisan support and it was signed into law by Governor Shapiro in 2024 to improve protections for the Commonwealth's children who are at risk of abuse and subject to custody litigation. We hear practically every week from protective parents how Kayden's Law is now helping them keep their children safe from abuse amid custody litigation. The proposed legislation before us, HB1499, would undo all of those protections for children and families advanced in that multi-year bi-partisan process. It would entirely erase the child's best interest factors and discard the safety measures just recently put in place by the Pennsylvania legislature.

¹ HB1499 would amend Pennsylvania custody law by creating a rebuttable, by clear and convincing standard, presumption that "shared physical custody, shared legal custody and equal parenting time is in the best interest of the child."

² Judith G. Greenberg, *Domestic Violence and the Danger of Joint Custody Presumptions*, 25 N. ILL.U.L.REV. 403, 411 (Summer 2005).

Peter Jaffe, Zerwer & Poisson, *Access Denied: The Barriers of Violence & Poverty for Abused Women and their Children After Separation* (citing four studies, all of which found 70-75% of cases in litigation involved allegations of domestic violence).

Morag MacSween, Tunya Petridis, & Jodi Death, *I wish they knew what they'd stolen from me: Child Sexual Abuse and the Family Courts* (June 2026).

³ Teresa E. Meurer, Tony Gibart & Adrienne Roach, *Domestic Abuse: Little Impact on Child Custody and Placement*, State Bar of Wisconsin, Dec 2018.

<https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?Volume=91&Issue=11&ArticleID=26737#>

To frame the problems that HB1499 presents, one must first consider the essential goal of custody decisions – to ensure that the **best interests of the child** – not parents – are protected. HB1499 is contrary to common sense evidence-based child protection policies: it is not in children's best interests to have a one size fits all approach, as each child and family is unique with unique needs, and it would be absurd to do away with the child's best interest factors.

Presumptions in child custody law, unless they concern child safety, are widely considered to be restrictive and contrary to determining a child's best interest.^{4,5,6} For example, the best interest of a nursing infant is different than that of a teenager who can drive. The best interests of a child who has never known nor lived with one parent are quite different than those of a child who has spent considerable time with and is bonded with both parents. A child's best interests are not served by spending 50% of his or her time with a parent with a severe substance abuse addiction for example, when the other parent is fit and has historically provided nearly all the caretaking, and so on. Only individual assessments by courts can consider all the factors unique to each child and his or her circumstance, which is how current custody law operates. HB1499 would instead impose a one size fits all model. This would be using a cudgel-like approach - asserting a presumption of equal or near equal time with each parent as the preeminent determinate of a "child's best interest." This position is not empirically supported. Research shows that children's post-divorce well-being is **not dependent upon the frequency** with which they see both parents, but rather upon: (1) the extent to which the custody agreement reflects pre-divorce caretaking and parenting time⁷ and (2) the quality of the parenting.⁸

Examples of Failed Shared Parenting Presumptions

We can look to other states and nations which have adopted shared parenting presumptions to see how poorly such policies work for children and families, especially those experiencing family violence. In 2000, Wisconsin adopted a 50/50 presumption model similar to that proposed here in HB1499; the outcome there is that children were regularly placed in 50% custody of a parent who had been *criminally convicted* of perpetrating family violence.⁹

Further, in 2023 Australia abolished their presumption of equal shared parental responsibility,¹⁰ which had been in place since 2006, because it was shown that so many children and families were being harmed by this policy. This Australian abolish reform was widely supported by family violence experts and legal aid organizations across the country, including The Federation of Community Legal Centers.¹¹

⁴ Joint Custody Presumptions and Domestic Violence Exceptions, American Bar Association (2020)
https://www.americanbar.org/groups/domestic_violence/Initiatives/statutory_summary_charts/

⁵ Judith G. Greenberg, *Domestic Violence and the Danger of Joint Custody Presumptions*, 25 N. ILL.U.L.REV. 403, 411 (Summer 2005)

⁶ Ver Steegh, N. and Gould-Saltman, H.D. (2014), Joint Legal Custody Presumptions. *Family Court Review*, 52: 263-270. <https://doi.org/10.1111/fcre.12089>

⁷ Anne-Rigt Poortman, *Postdivorce Parent-Child Contact and Child Well-being: The Importance of Predivorce Parental Involvement*, 80 *Journal of Family and Marriage* 671-683 (2018)

⁸ 12 Anja Steinbach, *Children's and Parents' Well-Being in Joint Physical Custody: A Literature Review*, *Family Process*, 2018 (measuring "benefit" by using children's self-reports of their life satisfaction and by using their feelings of depression as ascertained by responses to questions asking about loneliness, quality and amount of sleep, and frequency of moods such as happiness and sadness.).

⁹ *Supra* note 3

¹⁰ What is 'Equal Shared Parental Responsibility' in Australia? <https://www.gotocourt.com.au/family-law/equal-shared-parental-responsibility>

¹¹ Federation supports removal of presumption of shared parental responsibility
https://www.fclc.org.au/shared_parental_responsibility_bill

Pennsylvania Law Already Allows Courts to Award Equal Parenting Time and is Gender Neutral

Current Pennsylvania law requires courts to use a gender-neutral model. Proponents of bills like HB1499 often mistakenly claim that custody laws discriminate against fathers. Pennsylvania law is clear that gender is irrelevant to a court's determination of what is in the best interest of a child.¹²

Furthermore, research shows that when fathers actively seek custody, they obtain primary or shared custody over 70% of the time. Historically, under the tender years doctrine, courts generally defaulted to granting mothers primary custody especially for young children, however, this has not been the case for several decades in family law. On the contrary, in contemporary times, several studies show mothers are held to a significantly higher standard than fathers when being assessed by courts on their fitness to parent, especially in cases where abuse is alleged.^{13,14}

Finally, Pennsylvania courts **already have** the full authority to order parents to have equal parenting time with a child. Judges all over the Commonwealth, in fact, often strive to and commonly make such orders after assessing all the best interest factors as they apply to each child on an individual basis.

The Rights of Parents Should Never Outweigh the Protection and Best Interest of Children

As it stands, **courts err too often on the side of shared custody arrangements over child safety**, sometimes resulting in preventable ongoing child abuse or even fatality, such as was the case for Kayden Mancuso. You will hear more about this case from Kayden's mother today, but in sum, a Bucks County family court in 2018 ordered shared parenting for 7-year-old Kayden Mancuso, who was then brutally murdered by her father following the court ordering unsupervised parenting time in an effort to be "fair" to both parents. This happened despite her mother Kathy's warnings and the father's history of violent erratic behavior, including a criminal record.¹⁵ Kayden is sadly one of many such children in the US.¹⁶

In closing, the rebuttable shared parenting presumption model, proposed by HB1499, would further prioritize the demands of litigating – sometimes abusive - adults, rather than the needs of children. HB1499 is regressive and counter to the best interest of the children of Pennsylvania, and I therefore encourage a **NO** vote on this piece of legislation.

Please feel free to contact us should you have any questions and thank you for your consideration.

¹² § 5328 (b) "Gender neutral. --In making a determination under subsection (a), no party shall receive preference based upon gender in any award granted under this chapter."

¹³ Melissa L. Berger, *The (In)Visibility of Motherhood in Family Court Proceedings*, NYU Review of Law & Social Change, Vol 35, p 555 2012 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2204680.

Nina Jaffe-Geffner, *Gender Bias in Cross-Allegation Domestic Violence-Parental Alienation Custody Cases*, Columbia Journal of Gender and Law 42(1), 58-111 (2022) <https://journals.library.columbia.edu/index.php/cjgl/article/view/9373>

¹⁴ Nina Jaffe-Geffner, *Gender Bias in Cross-Allegation Domestic Violence-Parental Alienation Custody Cases*, Columbia Journal of Gender and Law 42(1), 58-111 (2022) <https://journals.library.columbia.edu/index.php/cjgl/article/view/9373>

¹⁵ The Philadelphia Inquirer news report, *Months Before Kayden Mancuso's Death, Mom Reported Girl 'Didn't Feel Safe' With Her Father* (August 7, 2018). <https://www.inquirer.com/philly/news/crime/kayden-mancuso-jeff-mancuso-murder-suicide-manayunk-girl-murder-suicide-langhorne-20180807.html>

¹⁶ Center for Judicial Excellence Database, *Children Killed by a Parent in the U.S. When Divorce, Separation, Custody, Visitation or Child Support Is Mentioned in News Coverage* <https://docs.google.com/document/d/1Tu864OvkiX21EzSQ1UGVil-ONSUmzLuAuDEJ-Wf3dbs/edit?tab=t.0>

Respectfully,

A handwritten signature in black ink, appearing to be 'DP' with a long horizontal stroke extending to the right.

Danielle Pollack

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Joint State Government Commission
Advisory Committee on Domestic Relations Law
– Custody Subcommittee
Written Testimony Submitted to
House Judiciary Committee

House Bill 1499

October 5, 2026

Harrisburg, PA

We appreciate the opportunity to provide this written testimony and will be available to provide in-person testimony should there be additional hearings scheduled on this legislation.

The Joint State Government Commission's Advisory Committee on Domestic Relations Law was created under Senate Resolution No. 43¹ "to undertake an ongoing limited study of certain areas relating to domestic relations law" so that findings and recommended legislation could be presented to the General Assembly. The Advisory Committee is comprised of more than two dozen judges and family lawyers from across the Commonwealth. A key benefit of the Advisory Committee is that it is able to coordinate a review of certain proposed amendments to maintain the Domestic Relations Code's systemic integrity. This testimony is being submitted on behalf of the Joint State Government Commission's Advisory Committee Subcommittee on Custody ("JSGC Custody Subcommittee"), which focuses specifically on studying laws related to child custody.

In recent years, there have been several amendments to the custody statutes which have meaningfully and positively impacted the ways in which our courts consider and decide custody matters. The JSGC Custody Subcommittee is pleased that the Legislature views child custody as an important topic. It is

¹ Sess. of 1993.

our goal to continue to work with the Legislature to ensure that Pennsylvania's custody laws continue to promote the best interests of children across the Commonwealth. To that end, we are providing this testimony to summarize our concerns regarding House Bill No. 1499, proposing to amend 23 PA. C.S. 5322 et. seq.

While well-intentioned, House Bill No. 1499 causes the JSGC Custody Subcommittee two key concerns, which appear in the amendments proposed for Section 5327 (relating to presumption in cases concerning primary physical custody) and Section 5328 (relating to custody factors). The first concern is that the proposed amendment would repeal the current enumerated statutory custody factors and replace them with a presumption for equal parenting time and shared legal custody. This amendment would prioritize the "rights" of the parents above the best interests of the children. The second key concern is that the presumption created by this proposed amendment can only be rebutted by clear and convincing evidence, which is an elevated evidentiary standard. We believe that both of these changes are significantly detrimental to the best interests of children.

To understand these concerns, it is important to understand the history of our custody statutes. For decades, the sole issue standard applied in a custody proceeding between contending parents was the very general "best interests of the child". In 2011, this Legislature amended the custody statute to provide more clarity to the best interests standard; it now includes a list of custody factors which must be addressed by the Court in every case before the Court determines legal and physical custody. Those factors were just streamlined in 2025 to eliminate repetitive factors; however, they remain the critical framework upon which custody decisions are now made. The mandatory application of factors ensures that both parties are given the opportunity to present evidence to the Court as to the best custody arrangements for the children in that particular case. The factors also require the court to critically analyze the evidence provided and to articulate, in the court's custody decision, how that evidence has been weighed in applying the factors.

Across the country, only a small minority of states² apply a presumption such as the one proposed in HB 1499. Notably, all of the states surrounding Pennsylvania (Delaware, Maryland, New Jersey, New York, and Ohio) use a framework similar to our current statute, which requires an individualized factor-based analysis.³ Further, the custody statutes for most of the states surrounding Pennsylvania include specific provisions to ensure the safety of the child.

² Arkansas (Ark. Code Ann. 9-13-101); Florida (Fla. Stat. § 61.13(2)(c)), Kentucky (Ky. Rev. Stat. Ann § 403.270(2)), Louisiana (La. Civ. Code art. 132; La. Rev. Stat. Ann. § 9:335(A)(2)(b)), Missouri (Mo. Rev. Stat. § 452.375.2); Mississippi (Miss. Code Ann. § 93-5-24(2)(a)(i)); West Virginia (W. Va. Code § 48-9-102a).

³ Delaware, Maryland, New Jersey, New York and Ohio all have custody statutes similar to Pennsylvania's current custody statute:

1. **Delaware** law requires the Court to determine legal custody and residential arrangements strictly in accordance with the best interests of the child in accordance with eight (8) factors listed in 13 Del. C. § 722. The statute expressly prohibits the court from presuming that a parent is better qualified to act as custodian or primary residential parent based on sex. Delaware does not establish a rebuttable presumption in favor of 50/50 shared physical custody. Instead, Delaware law mandates that custody and visitation schedules permit and encourage the child to have frequent and meaningful contact with both parents unless such contact would endanger the child's physical health or significantly impair emotional development. Delaware law does establish a strict rebuttable presumption against awarding custody or primary residence to a perpetrator of domestic violence. Under 13 Del. C. § 705A(a) and (b), there is a

The proposed amendments to this statute would replace the custody factors with a strong statutory presumption in favor of equal physical custody. We should be wary of deciding matters as sensitive as questions of custody by the invocation of presumptions, which do not require the Court to analyze the facts and circumstances of a particular case and instead, permit the Court to utilize a “default” pre-determined result by simply following the presumption. If we introduce presumptive decision-making into custody cases between parents, we are, in essence, legislating a pre-determined presumptive result before we know anything about the facts and circumstances of a particular family. The purpose of the custody factors is to ensure that the Court fully considers each party’s parenting strengths and weaknesses, and what custody schedule is most appropriate for the children, rather than simply assuming that all parents are good parents and that equally shared custody is the best outcome.

We know the motivation behind this legislation is simply to try to do what may appear, on its face, the “fair” thing. However, the custody statute that is currently in effect already protects the interest of both parties. In current Pennsylvania custody law, there is no presumption that custody should be awarded to a particular parent (23 Pa. C.S. 5327(a)), and the law is gender neutral (23 Pa. C.S. 5328(b)).

rebuttable presumption that no perpetrator of domestic violence shall be awarded sole or joint custody of any child, and that no child shall primarily reside with a perpetrator of domestic violence. This presumption may be overcome only if there have been no further acts of domestic violence and the perpetrator has successfully completed specified evaluation, counseling, and treatment programs, and has demonstrated that awarding custodial or residential responsibilities is in the child's best interests.

2. **Maryland** likewise includes a list of sixteen (16) factors to be considered by the Court in making a custody decision. Md. Family Law Code Ann. § 9-201. Maryland law does not provide a rebuttable presumption in favor of equally shared physical custody. Maryland statutory provisions and judicial mandates focus instead on individualized case-by-case analysis of the child's best interests without predetermined custody arrangements. Maryland law imposes specific limitations and procedural requirements when domestic violence or child abuse is involved. Under Md. Family Law Code Ann. § 9-101(a), if the court has reasonable grounds to believe that a child has been abused or neglected by a party to the proceeding, the court must determine whether abuse or neglect is likely to occur if custody or visitation rights are granted to that party. Unless the court specifically finds that there is no likelihood of further child abuse or neglect, the court must deny custody or visitation rights to that party, except that the court may approve a supervised visitation arrangement that assures the safety and well-being of the child.
3. **New Jersey** custody law is codified primarily in N.J. Stat. § 9:2-4, determining the best interests of the child in a non-exhaustive list of factors to be considered. New Jersey law does not establish a rebuttable presumption in favor of 50/50 shared physical custody. The statutory framework requires individualized determinations based on the best interests of the child without any default preference for equal physical custody arrangements. If there is evidence of domestic violence or child abuse, the court is prohibited from granting increased custody to the offending party to address a child's reluctance to interact with that party.
4. **Ohio** courts must consider all relevant factors, including ten (10) specifically enumerated in ORC Ann. 3109.04. Ohio law does not contain any statutory provision establishing a rebuttable presumption of 50/50 shared physical custody or shared parenting. The statute does not explicitly or implicitly state that a shared parenting plan is a rebuttable presumption. Instead, trial courts retain broad discretion to fashion custody arrangements on a case-by-case basis guided by the enumerated best-interest factors.
5. **New York** custody law is governed by statutory frameworks that prioritize the best interest of the child above all other considerations. Under New York Domestic Relations Law § 70, when considering questions of child custody, a court must make every effort to determine what is in the best interest of the child and what will best promote the child's welfare and happiness. New York case law has developed a set of factors that courts consider when evaluating the child's best interests for physical custody.

The only statutory presumption in Pennsylvania's custody statute is between a parent and a third party, with the presumption favoring the parent for custody. 23 Pa. C.S. 5328(b). These provisions ensure fair consideration for both parties.

With regard to the second concern, the proposed amendment would compel the party opposing equally shared physical custody to rebut the presumption by clear and convincing evidence. This standard requires evidence that is "so clear, direct, weighty and convincing" to enable the trier of fact (Judge) to "come to a clear conviction, without hesitancy, of the truth of the precise facts in issue." *In the interest of N.B.-A*, 657 Pa. 137 (2020)(citing *G.V. v. Dep't of Public Welfare*, 625 Pa. 280 (2014)). This places a higher burden of proof on any party opposing equally shared physical custody. If this higher evidentiary standard is applied, it means that parents in custody matters would no longer enter the courtroom on equal footing. The party seeking equally shared custody automatically would have a significant advantage – even in cases where equally shared custody may be completely inappropriate under the circumstances. Any parent (both moms and dads) who believe they should have primary physical custody based on the circumstances of their family are automatically placed at a disadvantage. What may appear to be an amendment designed to promote equal treatment of parents in custody cases will actually have the opposite effect. Notably, even in the small minority of states that do apply such a presumption, only two states (Arkansas and Louisiana⁴) require clear and convincing evidence to rebut the standard. The other states which apply such a presumption (Florida, Kentucky, Missouri, Mississippi, and West Virginia⁵) all require only a preponderance of the evidence to rebut the presumption.

The clear and convincing evidentiary burden is appropriate in other types of circumstances. For example, Pennsylvania law requires clear and convincing evidence for a non-parent to rebut the presumption in favor of a parent in custody cases. The JSGC Custody Subcommittee supported using that heightened evidentiary burden for that purpose, because we believed that it was appropriate for a non-parent to have a higher burden than a parent when the non-parent is seeking custody. However, House Bill No. 1499 would apply that higher burden of proof to disputes between parents, forcing one parent to meet a higher evidentiary burden of proof simply to demonstrate to the Court that equal physical custody is not appropriate for their family. This will present a particular challenge to self-represented parties (with no lawyers) who may not even realize that this higher evidentiary burden applies, let alone be able to present evidence sufficient to rebut the presumption. Between contesting parents, the burden of proof should be shared equally, with the child's best interests as the prime consideration. Under current Pennsylvania custody law, in a custody dispute between parents, neither parent has a higher burden of proof than the other and no presumption may be resorted to. Instead, the Court must determine, according to the evidence, what will serve the child's best interests. Our concern is that instituting an unequal burden of proof in custody cases will undoubtedly have unintended, negative consequences for families and children across the Commonwealth.

The amendment proposed for section 5327 by House Bill No. 1499 is a presumption favoring one particular custodial arrangement (equally shared physical custody) over the actual best interest of the child. This puts the "rights" of the parents ahead of the best interest of the child. Custody law should not be primarily focused on what is good for the parents, or what the parents want. Children are not

⁴ Ark. Code. Ann. 9-13-101; *Brown v. Brown*, 692 So.2d 458 (La. App. Ct.1997).

⁵ Fla. Stat. § 61.13(2)(c)), Kentucky (Ky. Rev. Stat. Ann § 403.270(2)), Missouri (Mo. Rev. Stat. § 452.375.2); Mississippi (Miss. Code Ann. § 93-5-24(2)(a)(i)); West Virginia (W. Va. Code § 48-9-102a).

chattel. These custody decisions affect their lives every day. The Commonwealth and the Courts have an obligation to protect the children that come before them.

As we stated earlier, we very much appreciate the Legislature's efforts to update this statute. In fact, in the past we saw the need to take a good, hard look at this statute and to fix anything that may have been broken. In that vein, we recommended the implementation of the statutory factors to consider when awarding custody under Section 5328, which were ultimately adopted through the hard work of this Legislature. If the goal of the Legislature is to ensure that custody decision-making is fair and evidence-based and to maintain a focus on the welfare and well-being of children, then the preservation of these custody factors is vital. It remains our goal to continue to review the custody statutes in order to protect the rights of both parents but more importantly to protect the best interest and safety of the child.

Thank you for the opportunity to share the concerns of the JSGC Custody Subcommittee regarding House Bill 1499. Utilizing a presumption of equally shared custody would elevate parental rights above the best interests of each child in these difficult situations, and risks custody orders that are not based on the best interests of the children involved. This type of presumption would not serve the children and families of Pennsylvania for the reasons outlined above. Thank you for the opportunity to submit this written testimony today.

Respectfully Submitted,



Maria P. Cognetti, Esquire
Co-Chair
JSGC Custody Subcommittee



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Honorable Daniel J. Clifford
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Written Testimony**of**

Ashley Milspaw, Psy.D.
Chair of the Child and Family Forensics Committee
Pennsylvania Psychological Association

Hearing on HB 1499 Proposed Presumption of Joint Legal Custody
Before the Pennsylvania House Judiciary Committee
October 5, 2026

Testimony on the Proposed Presumption of Joint Legal Custody

Good morning, my name is Ashley Milspaw, and I am a licensed psychologist, a 21-year member in good standing, and Chair of the Child and Family Forensics Committee of the Pennsylvania Psychological Association. I first want to thank Representative Briggs and the other members of the House Judiciary Committee for allowing the Pennsylvania Psychological Association to provide written testimony on this bill dealing with child custody. The Pennsylvania Psychological Association represents over 3,500 psychologists in the Commonwealth and has an active child and family forensic committee that cooperates with family law attorneys, judges, and other interested parties in trying to find effective alternatives to custody litigation, and ways to optimize the benefits to children and families when litigation cannot be avoided.

My testimony today deals with a presumption of joint legal custody.

Introduction

Thank you for the opportunity to present the perspective of the Pennsylvania Psychological Association on the proposed presumption of joint legal custody and equal parenting time.

Our testimony today concerns the proposed statutory presumption that shared physical and legal custody and equal parenting time are in the best interest of a child. The Pennsylvania Psychological Association's position is that there should be no presumption in favor of any particular custody arrangement. Instead, custody decisions should be based on the individual needs and circumstances of each family. This encompasses the developmental, psychological, and safety needs of the individual child, based on the most up-to-date scientific knowledge and understanding.

Research does not support a simple conclusion that one custody arrangement is best for every child. Studies have found that many children do well in shared custody arrangements, and some research has found favorable outcomes for children in joint physical or legal custody compared with children in sole-custody arrangements (Bauserman, 2002; Vowels et al., 2023, Research also indicates that the effects of custody arrangements depend on important contextual factors, including the quality of parenting, the level and nature of parental conflict, family stability, and the presence or absence of violence or coercive control (Mahrer et al., 2018; Vowels et al., 2023).

The central issue, therefore, should not be whether shared custody is inherently good or bad. The appropriate question is whether a particular custodial arrangement is appropriate for a particular child and family.

Presumption of Custody Under House Bill 1499

House Bill 1499 would establish a rebuttable presumption that shared physical and legal custody and equal parenting time are in the best interest of the child. Under the proposal, the presumption could be rebutted by clear and convincing evidence, and when equal parenting time is not warranted, the court would be directed to establish a schedule that maximizes each parent's time with the child to the extent consistent with the child's best interests.

The Pennsylvania Psychological Association believes that establishing such a presumption could unnecessarily limit the court's ability to consider the circumstances of individual families.

Under Pennsylvania's existing custody framework, courts are directed to consider the best interests of the child and a range of factors relevant to the individual case, including the child's safety, abuse or violent behavior, parental cooperation and conflict, stability, developmental needs, and other circumstances affecting the child's welfare. 23 Pa. C.S. § 5328 (2025). This individualized approach is consistent with best psychological practice and the most current scientific knowledge and findings. The American Psychological Association's guidelines for child-custody evaluations describe custody disputes as involving decisions concerning children's decision-making, caretaking, and access and emphasize the importance of evaluating the best interests of the individual child. (American Psychological Association [APA], 2010).

For these reasons, the psychological evidence suggests that we should carefully consider the unique circumstances of each family before assuming that equal parenting time is always the best arrangement. While most divorces involving children are resolved amicably between the parties, only the top ten percent of these cases require court intervention. Therefore, it's

reasonable to argue that only the cases that reach court are those where the specific dynamics of a particular family necessitate the court's involvement.

Research on Shared Custody

Recent research has found that shared physical custody can be associated with positive outcomes. Vowels et al. (2023) conducted a systematic review of 39 studies published between 2010 and 2022. Across the studies reviewed, children in shared physical custody frequently had outcomes comparable to children in nuclear families, although the researchers emphasized that family circumstances and selection effects must be considered when interpreting these findings. Additionally, Bauserman's (2002) meta-analysis examined studies comparing children in joint physical or legal custody with children in sole-custody arrangements. Overall, children in joint-custody arrangements demonstrated better adjustment than children in sole-custody arrangements across several measures, including general adjustment, family relationships, self-esteem, and emotional and behavioral adjustment. The findings are consistent with the possibility that continued positive involvement with both parents can benefit children following parental separation.

These findings should not be dismissed. Maintaining meaningful relationships with both parents is valuable to children. However, the existence of positive outcomes among many children in shared custody does not establish that shared custody is necessarily appropriate for every family. Furthermore, meaningful relationships with both parents are not equivalent to, or the same as, equitable physical and legal custody arrangements.

A custody arrangement is not an intervention that operates independently of the family relationships surrounding it. The quality of parenting, the parents' ability to cooperate, the child's

developmental needs, the degree of instability, and the presence of conflict or violence can all affect children's experiences.

Parental Conflict and Child Adjustment

One of the most important considerations in custody decisions is the nature and intensity of parental conflict. A substantial body of psychological research has found associations between destructive interparental conflict and difficulties in children's adjustment. Rhoades (2008), in a meta-analysis examining children's responses to interparental conflict, found relationships between children's cognitive, emotional, behavioral, and physiological responses to parental conflict and indicators of child adjustment.

Similarly, van Eldik et al. (2020) conducted a large meta-analysis involving 169 studies examining children's maladjustment and 61 studies examining children's responses to interparental conflict. Their findings provide evidence that characteristics of the interparental relationship—including conflict frequency and hostile, disengaged, and unconstructive forms of conflict—are associated with children's functioning.

Research with younger children also demonstrates the importance of the child's perception of parental conflict. Clements et al. (2014) found that preschool children's perceptions of interparental conflict predicted aspects of their adjustment, including self-esteem and behavior problems, even after accounting for parents' reports of conflict.

These findings are important because parental conflict does not necessarily disappear when parents separate. The American Psychological Association has specifically recognized that divorce does not end patterns of high parental conflict for some families. Its parenting-coordination guidelines emphasize reducing damaging conflict to which children are exposed and maintaining a focus on children's developmental and psychological needs. (APA, 2011).

The relevant distinction is therefore not simply whether parents are divorced or whether they share custody. It is whether the parenting arrangement decreases children's exposure to continuing destructive conflict and whether the parents are capable of functioning sufficiently well together to meet their children's needs.

Shared Parenting in High-Conflict Families

The research concerning shared parenting in high-conflict families is particularly relevant to the proposed statutory presumption. Mahrer et al. (2018) reviewed 11 studies examining parenting time, parenting quality, parental conflict, and children's adjustment in high-conflict divorced families. Their review found that the results were heterogeneous. In some samples characterized by high conflict, higher levels of shared parenting were associated with poorer child adjustment, particularly when high conflict persisted years after divorce. At the same time, the authors noted that the findings were not uniform and that high-quality parenting by at least one parent was associated with better child adjustment. This is an important qualification. The research does not establish that shared parenting is inherently harmful in high-conflict families. Instead, it indicates that the relationship between parenting time and child adjustment becomes more complicated when substantial parental conflict is present.

Consequently, a statutory presumption may be problematic because it establishes the preferred custody arrangement before the court has evaluated the very factors that research suggests may affect whether that arrangement will be successful.

A court should be able to consider whether parents can communicate appropriately, whether they can make decisions jointly, whether transitions between households can occur without exposing the child to conflict, and whether the proposed arrangement will promote

stability and healthy development, and award primary custody to the parent that is capable and effective in shielding the children from conflict.

Domestic Violence and Child Safety

Domestic violence and coercive control warrant special attention because they transcend the boundaries of typical parental disagreements. Research has consistently associated children's exposure to intimate partner violence with adverse developmental and psychological outcomes. Vu et al. (2016) conducted a meta-analysis of 74 longitudinal studies and found that children's exposure to intimate partner violence was prospectively associated with externalizing problems, internalizing problems, and overall adjustment difficulties. The associations became stronger over time in the longitudinal studies reviewed. Research also indicates that the effects of family violence and coercive control dynamics may operate through parenting and broader family processes. Katz and Low (2004), for example, found relationships among marital violence, co-parenting processes, and children's adjustment, including anxiety and depression. Jouriles et al. (2014) studied 119 families recruited from domestic-violence shelters and found that children's involvement in their parents' conflicts was associated with both internalizing and externalizing adjustment problems. Importantly, these associations remained after controlling for physical intimate partner violence.

More recent research has also emphasized coercive control. Xyrakis et al. (2024) systematically reviewed 51 studies concerning interparental coercive control and found evidence of adverse outcomes involving parenting and family relationships, children's internalizing and externalizing problems, social-emotional development, and physical health.

These findings reinforce an important distinction: high conflict and domestic violence should not be treated as interchangeable concepts. The APA's parenting-coordination guidelines

specifically distinguish ordinary high-conflict relationships from situations involving coercion, control, intimidation, threats, or violence and emphasize the need to consider safety and power imbalances. (APA, 2011).

A custody presumption should therefore not prevent courts from carefully evaluating allegations and evidence of violence, coercive control, intimidation, abuse, or other safety concerns.

The Importance of Parental Cooperation

Shared parenting generally requires a significant degree of coordination. Parents must communicate about schedules, education, medical care, activities, transportation, and most aspects of children's lives. The ability to cooperate is therefore an important practical consideration. This does not mean that parents must agree about everything. Healthy families can have disagreements. What matters is whether parents can manage disagreements without including children in the conflict. The research supports distinguishing between constructive disagreement and destructive conflict. Recent research continues to examine how the nature of interparental conflict affects children as all disagreements are not equivalent. For example, a 2026 systematic research synthesis of 23 peer-reviewed quantitative studies found that constructive interparental conflict was associated with fewer negative child outcomes and, in some circumstances, with positive outcomes such as emotional security and social problem-solving skills. (Zhang & Wu, 2026).

This distinction strengthens, rather than weakens, the case for individualized custody decisions. The question is not simply whether conflict exists. The court should consider the type, severity, frequency, and effects of the conflict, as well as the source of the conflict, parents'

ability to protect their children from it, and which parent tends to create and contribute to most of the conflict.

Individualized Assessment and the Best Interests of the Child

The Pennsylvania Psychological Association's position is not that shared custody should be rejected. Rather, the position is that the law should not predetermine that shared custody or equal parenting time is best before the court evaluates the individual circumstances.

Children have different developmental needs. Parents have different levels of parenting capacity. Families differ in their geographic circumstances, communication patterns, histories of conflict, economic resources, support systems, and safety concerns. The APA's child-custody guidelines recognize that custody evaluations concern the best interests of the child in the context of the individual family. (APA, 2010). Similarly, Pennsylvania's existing statutory framework requires courts to examine multiple factors rather than relying on a single predetermined arrangement. 23 Pa. C.S. § 5328 (2025).

An individualized approach also permits courts to distinguish between families in which equal parenting time is likely to work well and families in which another arrangement may better serve the child's needs.

Implications for House Bill 1499

The proposed presumption would place the burden on a parent opposing equal shared custody to overcome the statutory presumption by clear and convincing evidence. From a psychological perspective, this raises an important concern. The court would begin with a predetermined custody preference before evaluating the particular child's circumstances.

The research does not justify such a universal starting point. The evidence supports several propositions simultaneously:

1. Many children do well in shared custody arrangements.
2. Continued positive relationships with both parents can benefit children.
3. Shared custody outcomes vary according to family circumstances.
4. Persistent destructive parental conflict is associated with poorer child adjustment.
5. High-conflict shared-parenting arrangements require particular care.
6. Exposure to intimate partner violence and coercive control presents significant risks to children.
7. Parenting quality and parental cooperation are important considerations.
8. Children differ in their developmental and psychological needs.

Taken together, these findings support a flexible, evidence-informed approach rather than a categorical presumption.

Conclusion

The Pennsylvania Psychological Association recognizes the value of children maintaining meaningful and healthy relationships with both parents whenever doing so is consistent with their well-being and safety. Research demonstrates that shared custody can be successful and that many children in shared custody arrangements experience positive outcomes (Bauserman, 2002; Vowels et al., 2023). At the same time, research demonstrates that custody arrangements cannot be evaluated independently of the family relationships in which they operate. Persistent destructive conflict, children's involvement in parental disputes, domestic violence, coercive control, and other safety concerns can have significant implications for children's adjustment (Rhoades, 2008; Vu et al., 2016; Mahrer et al., 2018; Xyrakis et al., 2024).

Accordingly, the Pennsylvania Psychological Association's position is that there should be no statutory presumption of joint legal custody, shared physical custody, or equal parenting

time. Instead, courts should retain the ability to examine the circumstances of each family and determine the arrangement that best serves the individual child's developmental, psychological, and safety needs. A flexible best-interests standard does not favor one parent over another. It allows the court to recognize that shared parenting may be highly appropriate for one family while a different arrangement may be more appropriate for another. The ultimate objective should be to create parenting arrangements that support children's healthy development, preserve safe and meaningful relationships with parents as appropriate, minimize children's exposure to destructive conflict, and protect children from violence, coercive control and other forms of harm.

Thank you for the opportunity to present the Pennsylvania Psychological Association's perspective on this important issue.

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Pennsylvania Consolidated Statutes, 23 Pa. C.S. § 5327 (2025).

Pennsylvania Consolidated Statutes, 23 Pa. C.S. § 5328 (2025).



Good morning, Chair Briggs, Chair Kauffman, and members of the Judiciary Committee.

Thank you for the opportunity to share my support for HB 1499. *My name is Rael LaPenta. I am a Pennsylvania mother with six years of experience in our custody courts—372 docket entries later, I would call that significant personal experience. I am also speaking on behalf of Mothers Against Child Abuse (MACA), a national organization dedicated to child safety and protecting children from physical, emotional, psychological, and coercive harm.*

The question before Pennsylvania should begin with facts, not hypotheticals: when two fit parents both want to raise their child, what should the legal starting point be?

A rebuttable presumption is a **starting point, not a finish line**. Under the current HB 1499 print, shared legal and physical custody, with equal parenting time are presumed to be in the child's best interest, but that presumption can be overcome by evidence. The court still evaluates the individual child and family.

In 2022, Pennsylvania already made nine legislative findings about this. [The General Assembly found](#) that children benefit from access to both parents and that involved fathers are a protective factor to children. They support safety, stability, resilience, school success, and emotional well-being and that father absence can carry real risks for children. It then declared as public policy of this Commonwealth to remove the related institutional barriers.

Pennsylvania's own 2025 child-protection data¹ also cautions us against substituting stereotypes for evidence. DHS identified **more than 300 additional mother-perpetrator relationships than father-perpetrator relationships in substantiated reports, and about 250 more substantiated reports involved children living in single-parent homes than in two-parent homes.**

Those numbers do not prove that mothers or single parent homes are inherently more dangerous. They demonstrate something much more important: **Mother is not a safety finding. Father is not a risk finding. Family structure is not a safety assessment. Evidence is.**

When evidence establishes abuse, violence, neglect, or another genuine danger, protect that child. But when two fit parents come before the court, neither should begin as the secondary parent because of assumptions about parental roles.

Pennsylvania has already recognized the importance of safety and the importance of both parents. A rebuttable presumption creates the authority to put those findings into action, by asking our courts to begin with both principles—and let the evidence determine when a different result is necessary.

Looking at these findings and data, the real question is why **wouldn't** Pennsylvania want this for our children. Thank You.

¹ 2025(DHS reported 1,697 mother perpetrator relationships compared with 1,380 father perpetrator relationships; 1,907 substantiated reports involved single-parent households compared with 1,655 involving two-parent households.)

Pennsylvania Shared-Parenting Testimony

Robert Garza | House Judiciary Committee | HB 1499

Chairman, members of the committee, and members of the Pennsylvania General Assembly:

My name is Robert Garza, and I am a family court reform advocate, legislative author, and public policy strategist. I am here today to speak about something larger than custody percentages.

I am here to speak about childhood.

When parents separate, a child should not automatically lose the meaningful presence of one fit, loving parent.

A divorce ends a marriage.
It does not end motherhood.
It does not end fatherhood.

And it should not unnecessarily diminish the relationship between a child and either parent.

House Bill 1499 asks Pennsylvania to consider a stronger shared-parenting framework while preserving the court's responsibility to protect children and determine what is in their best interest.

Shared parenting does not mean ignoring abuse, domestic violence, neglect, addiction, or danger. Children must be protected.

But when two parents are safe, fit, willing, and capable of raising their child, the law should recognize that both relationships matter.

A custody order may be written in percentages.
But a childhood is remembered in moments.

Bedtime stories. Homework at the kitchen table. Birthdays. Christmas mornings. Baseball games. School plays.

A parent being there when a child has a terrible day and simply needs Mom or Dad.

Those moments cannot be returned ten years later.

This issue should not be about mothers versus fathers.
It should not be Republican versus Democrat.
It should be about children.

Pennsylvania has an opportunity to establish a simple principle:

When both parents are safe, fit, willing, and capable, children should have the opportunity to meaningfully love, know, and be raised by both of them.

I respectfully urge this Committee to advance HB 1499 with meaningful protections for children and a strong commitment to preserving their relationships with both safe, fit parents.

Because when it comes to fit parents and their children:

If you're not starting at equality, you're starting at inequality.

Thank you,
Robert Garza

Comments from Joanne Dilacqua, 9/30/26

Hi,

My name is Joanne Dilacqua from Holland PA. Bucks County. I am a parent of a 12 year old daughter.

Within weeks of telling my ex I wanted a divorce, I was falsely accused of abusing my daughter which has been completely unfounded. My hearing date took 3 weeks. I was not allowed to see my daughter during the time. In court, I was strongly encouraged to choose a stair-step custody arrangement rather than proceed to a trial where I could present evidence and defend my truth. I felt discouraged from holding onto my request for a trial.

The decision had consequences far beyond imagination. After being my daughter's mother every day for eleven years at the time, I was suddenly reduced to two hours supervised visits on a Sunday. It created a devastating rupture in my relationship with my daughter. That was an extremely important and vulnerable time period. I have been fighting for two years now to repair it. The false accusations didn't stop along with smear campaigns...my reputation as a mother is damaged.

Technically my daughter and I have more time together but I have a child who is refusing her mom and as a result having enormous behavior issues that are unsafe at times. We are now facing a decision about whether she needs a higher level of therapeutic care. October 6th is that hearing.

This bill is about prevention. Please don't let another parent lose even one hour, one day with their child based on unproven allegation. Start with equality and let the evidence determine what comes next. My hope is that this bill can prevent another family from experiencing what mine has.

Sincerely,

Joanne Dilacqua

Holland/Bucks County, PA

RE: HB 1499 - October 5th 2026

Good morning, Chair Briggs, Chair Kauffman, and members of the Judiciary Committee

My name is Michael Hostetter and I am speaking on behalf of my eight year old daughter, Emily. We are asking for your support in HB1499.

All loving and cooperating separated parents strive to maintain a 50/50 relationship with their children. This is the starting point for parents who want the best for their children.

Emily's childhood is like many other families seeking the protection of HB1499. She cannot see one of her parents consistently or meaningfully. The courts recognized me as a safe loving parent, however, asserted that my daughter is only legally required to see my 10% of the month.

In my case, opposing counsel has made it very clear they will agree to 50/50 only if I pay more money. Without the goals and protection of HB1499, Emily remains a pawn in the system.

I'm thankful for the efforts of individuals across the United States that have worked hard to pass 50/50 in other states. I'm thankful for the supporting members of the Judiciary Committee who have given a voice to children like my daughter.

We are asking for full support across the Judiciary Committee for HB1499.

In the year 2036, my daughter will be 18 years old and able to make her own decisions. To my daughter, it's not your fault. Be strong, be patient and Daddy loves you.

Thank you,
Michael Hostetter
York Pennsylvania

Written Testimony in Support of House Bill 1499
House Judiciary Committee Public Hearing
October 5th, 2026

I am Charles Mohr, a dedicated loving father of four wonderful children, a business owner dedicated to providing housing solutions of affordability, and a resident in Monroe County, Pennsylvania.

I have witnessed first hand the damage to the children by the removal of equal access to one parent in my own family and many others throughout the state. A child simply desires and truly deserves that of a loving and stable environment, knowing they have a supportive mother and father in their lives. To remove a fit parent away from the children, the real and long term damage falls on everyone involved, but evermore so the entire weight on the children. Adults have coping mechanisms to deal with pain and grief. Children do not have those tools yet built to deal with such a level of mature conflict; while simultaneously feeling so silenced as their world around them spiraling leaving more questions leading into a state of emotional survival over thriving as they should be as children.

House Bill 1499 is here to protect the children's best interests to maintain continuity, stability, love, and support, with equal access to both parents to allow the child/ren to thrive, even if through a high conflict separation / dissolution of marriage. HB1499 will help to also significantly reduce the length of litigation conflict allowing parents to be in a less stressed long term environment putting time, energy, and resources where it truly matters, back to the children's development.

For children to continue to have the opportunity to experience the small everyday moments from the good morning greetings to nighttime reading and share of the milestone achievements of moving up days in school to goals on the field, shared in time, in a stable and continuous routine, only serves as a great boost in life for these children to have these experiences and stability with both of their parents to share in their core memory development.

To remove a parent's ability to have consistent, frequent, and cumulative access to their own children not only diminishes their position as an authoritative parent, but, it automatically removes a much needed stability point of access for the children that they are told by a ruling of a court, that parent is out of reach. While custody orders are intended to provide consistency and structure and to support a child's relationship with both parents, in some high-conflict cases the order can effectively become the ceiling rather than the floor for a child's time with one parent. When communication and flexibility between parents are limited, opportunities for additional parenting time, special events, or ordinary day-to-day involvement may be restricted to only what is specifically written in the order. A shared-parenting framework can help establish from the outset that, absent safety concerns or other circumstances warranting a different arrangement, both parents are expected to remain meaningfully involved in their children's lives.

Providing equality and shared parenting as a standard protects and provides our children with a best position of growth and development under the conflict of marriage separation and litigation circumstances. A loving and fit parent should not be in a position to have to fight to be equally a part of their own children's lives and these children should not be receiving what seems like a criminal life sentence against their youthful years of development to only have visitation to one of their loving parents. The short term and long damage happening to children today through separation of family and removal of consistent access to both of their parents is very apparent and very real. HB1499 can help to correct the course.

Doing so is not only the best interest for the child/ren but is what's best for future development within community and society with our youthful future, growing up in a stable and consistent, environment through the equal access of both loving and fit parents, raising the child/ren together to navigate the tough journey of life they will face as they become adults.

I am Charles Mohr, loving father of four beautiful children, first and foremost.

Sincerely,

Charles Mohr

Charles Mohr

Written Statement in Support of Pennsylvania House Bill 1499

I believe every child in Pennsylvania deserves equal access to both safe parents.

This month marks one year since I have seen my twin boys.

They are almost 18.

For more than three years, I fought to stay active in their lives. I spent more than \$60,000 in legal fees. I followed every court order. I passed every drug test I was given. I kept showing up because I believed my children deserved both of their parents.

Eventually, I reached a point where I could not keep doing it.

I walked away from that process with a clinical diagnosis of post-traumatic stress disorder.

My name is Mike Allebach, and I am submitting this statement in support of House Bill 1499 because I believe Pennsylvania needs a better way to handle custody cases when both parents are safe and capable.

Before my separation, I was told that if I left my marriage, I would lose my children, become homeless, and go bankrupt.

When my marriage became unsafe for me, I reached out to Laurel House for help. With their support, I was able to leave.

Even after everything that happened, I never wanted my children to lose their mother.

I asked for 50/50 custody because I believed they needed both of us.

I was awarded about 20% of the parenting time.

What followed was a three-and-a-half-year custody battle.

There were hearings, lawyers, drug tests, court orders, financial pressure, and constant stress.

I kept going because this was never about winning.

It was about being a father.

At some point, though, the cost became too high. Financially, emotionally, and psychologically, I could not keep fighting.

That is something I think we need to talk about more honestly.

Long custody battles do not happen in a vacuum. They affect the parents. They affect the children. They affect relationships that sometimes never recover.

Research on high-conflict divorce has found links between parental conflict and post-traumatic stress symptoms in children. Research on shared physical custody has also found that children often do well when they are able to maintain meaningful relationships with both parents, assuming both homes are safe.

That matters because the way a custody case starts often shapes everything that follows.

House Bill 1499 would create a rebuttable presumption in favor of shared legal custody, shared physical custody, and parenting time as close to equal as practical.

It does not mean every family gets 50/50 custody.

It does not mean judges lose discretion.

It does not mean abuse, violence, addiction, neglect, or safety concerns should be ignored.

Those situations need to be taken seriously.

What this bill does is change the starting point for families where both parents are capable of caring for their children.

Instead of one parent having to spend years proving why they deserve meaningful time with their child, the starting point would be that children should have meaningful relationships with both parents unless there is a good reason they should not.

I think that is a healthier place to start.

Temporary custody arrangements matter too. A temporary schedule that gives one parent far less time often becomes the reality for months or years while a case works its way through court.

Children keep growing during that time.

Birthdays pass.

Holidays pass.

School years pass.

Relationships change.

You do not get those years back later.

If equal parenting time had been the starting point in my own case, I do not know how everything would have turned out.

I do know what happened under the system we have now.

My children spent years in the middle of a custody dispute.

I spent more than \$60,000 trying to remain part of their lives.

I developed PTSD.

And now a full year has passed since I have seen my twin boys.

They are almost adults.

HB 1499 will not give me those years back.

That is not why I support it.

I support it because there are families entering the court system right now who still have a chance to avoid what mine went through.

I support it for the child who loves both parents and should not have to watch one of them slowly disappear from their life because the court process became too expensive or too exhausting.

I support it for the mother or father who is doing everything asked of them and still feels like they have to prove they deserve to be a parent.

I support it because family court should protect children from dangerous parents.

It should also protect children from unnecessarily losing good parents.

This should not be a fight between mothers and fathers.

It should be about children.

When both parents are safe, capable, and willing to be involved, I believe the law should start from the idea that children deserve both of them.

I respectfully ask the members of the Pennsylvania House of Representatives to support House Bill 1499.

Thank you for allowing my statement to be part of the record.

Mike Allebach

Phoenixville, Pennsylvania