

105TH CONGRESS
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H. CON. RES. 182

Expressing the sense of Congress with respect to child custody, child abuse,
and victims of domestic and family violence.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 1997

Mrs. MORELLA (for herself, Mr. SCHUMER, Mr. DAVIS of Virginia, Mrs. JOHNSON of Connecticut, Ms. FURSE, Ms. CARSON, Mr. VENTO, Mr. LAFALCE, Mr. STARK, Mr. FROST, Mr. PAYNE, Mr. HINCHEY, and Mr. SANDERS) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

CONCURRENT RESOLUTION

Expressing the sense of Congress with respect to child custody, child abuse, and victims of domestic and family violence.

Whereas domestic violence has serious detrimental effects on children, even when they do not directly witness such violence;

Whereas courts still hold women to higher standards of conduct than they do men;

Whereas gender bias still exists within the courts, particularly those making and affecting child custody determinations;

Whereas gender bias has long existed and still exists within the mental health system;

Whereas, as a result of this gender bias, many myths are that women make false allegations of domestic violence or child abuse, and most particularly of child sexual abuse, during divorce and custody proceedings;

Whereas false accusations by women are in fact rare, occurring no more often than do other false reports of crimes, such as bank robbery;

Whereas the myth that women make false accusations is so widely believed that many child protective service agents have policies of not bothering to investigate such allegations when made during the pendency of divorce or custody proceedings or only superficially investigate such allegations;

Whereas there are many myths that fathers are discriminated against in custody proceedings, even though studies show that fathers fighting for custody actually win sole custody or joint custody in 40 to 70 percent of these disputes;

Whereas the American Psychological Association's Presidential Task Force on Violence and the Family has found in a 1996 Presidential Report that Congress views as authoritative on questions of domestic violence, child abuse, and custody determination that—

(1) fathers who abuse their children's mothers are more likely to dispute custody and visitation than are fathers who are not violent;

(2) there is no reliable data to support the phenomenon of "parental alienation" syndrome, although courts and custody evaluators frequently use that term and other inappropriate terms to discount the children's fear in hostile and psychologically abusive situations; and

(3) psychological evaluators not trained in domestic violence ignore or minimize the violence and give inappropriate pathological labels to women’s responses to chronic victimization, including “parental alienation” to blame mothers for their children’s reasonable fear or anger toward their violent fathers.

Whereas many courts and professionals use the baseless parental alienation syndrome to force mothers into joint or shared parenting arrangements or to give custody to fathers, especially when mothers try to protect themselves or their children from men who abuse them or their children;

Whereas almost every custody evaluator or judge recognizes how important familiar routines and objects are to a child, particularly in times of stress, but often fails to recognize the importance for the child of maintaining its living arrangement with the child’s primary caretaker parent;

Whereas Congress never intended that the Parental Kidnapping Prevention Act be used—

(1) to encourage forcing shared parenting arrangements when it is not in the child’s best interest;

(2) to prohibit an abused or protective parent from protecting themselves or their child;

(3) as a tool to punish a parent, without regard for the needs of the child, by removing physical custody of a child from a fit abused or protective parent; or

(4) as a tool to punish abused or protective parents who act to protect themselves or their children;

Whereas when there is domestic or family violence or major discord between the parents, shared parenting arrange-

ments, couples counseling, or mediation arrangements only exacerbate the difficulties of the children and give the abusive parent more tools with which to victimize the other members of the family;

Whereas children who grow up not seeing abusive parents clearly held accountable for their abuse are reinforced in believing that domestic and family violence are socially acceptable and effective means of behavior; and

Whereas every State has legislation or judicial decisions that base its custody determinations on what is in the best interests of the child: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That it is the sense of Congress that—*

3 (1) for purposes of determining child custody, it
4 is in the best interest of children to have a presump-
5 tion that children should have their main physical
6 residence with their primary caretaker parent unless
7 that parent is unfit;

8 (2) for purposes of determining child custody, it
9 is not in the best interest of children to—

10 (A) force parents to share custody over the
11 objection of one or both parents or when there
12 is a history of domestic or family violence;

13 (B) punish abused or protective parents
14 who protect themselves or their children;

15 (C) presume that allegations of domestic
16 and family violence are likely to be made falsely

1 or for tactical advantage during custody and di-
2 vorce proceedings; and

3 (D) make “friendly parent” provisions a
4 factor when there is abuse by one parent
5 against the other or a child;

6 (3) child abuse and child sexual abuse allega-
7 tions should be fully and impartially investigated re-
8 gardless of when they are raised or whether the child
9 has recanted the allegation;

10 (4) States should be far more protective of vic-
11 tims of domestic and family violence in custody and
12 visitation determinations and not order mediation,
13 couples counseling, shared custody, mutual orders of
14 protection, unsupervised visitation, or other meas-
15 ures when they may endanger victims of domestic
16 and family violence; and

17 (5) States should provide training in domestic
18 violence and child abuse, as they impact custody,
19 child support and visitation determinations, to all
20 professionals who interact with children and parents
21 (including judges, attorneys, guardians ad litem,
22 therapists, mental health professionals, custody eval-
23 uators, child protective services personnel, and court
24 appointed special advocates).

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