

House Committee on Judiciary

Neutral to HB2039

January 28, 2015

Chairman Barker and Members of the Committee:

The Kansas Coalition Against Sexual and Domestic Violence (KCSDV) is a statewide non-profit organization of the 29 sexual and domestic violence programs serving survivors of sexual assault and domestic violence across the state.

KCSDV is neutral on HB2039 and wants to take this opportunity to review some of the provisions in this Bill as they relate to domestic violence.

For better or worse, case management has become the standard in post-divorce, ongoing litigation in Kansas. KCSDV supports the use of case management as a way to manage the flow of difficult cases moving through the family law court system. Unfortunately, because many of these cases are labeled “high conflict,” the real and serious issues of domestic violence are masked and there is an insinuation that the cases are trivial and the conflict is “mutual.” Additionally, the fact that domestic violence is “hidden” in the term “high conflict” acts to minimize the need for screening and safety planning for the victim

Abusers often use litigation to keep victims and their children unsettled, uncertain and unsafe. They commonly file motion after motion, sometimes bankrupting the victim/parent who is trying to protect herself and her children from the on-going abuse, which has now been labeled as “high conflict.” The Victim/parent is made to sound like an equal participant in the “conflict.” This label does not recognize that many of these “high conflict” cases are actually domestic violence cases where abuse is continuing after the separation and divorce.

KCSDV objects to the use of the term “high conflict” because it masks the serious nature of what is going on and makes these cases appear annoying and time consuming rather than dangerous. According to Janet Johnston, a leading researcher of high conflict divorce cases:

"My many studies suggest that, in divorces marked by ongoing disputes over the custody and care of children, both inside and outside the court, there is often a history of domestic violence in the family and a likelihood that the violence will continue after the separation."

Additionally, according to the *National Council of Juvenile and Family Court Judges*, cases involving abuse are often mistaken for "high conflict" cases:

"Family law cases involving evidence of abuse may be (and in fact, often are mistakenly) labeled 'high-conflict.' Abuse cases may have high-conflict characteristics, but they require a different set of considerations in order to promote safety for the at-risk parent and child. High-conflict cases are those intense and protracted disputes that require considerable court and community resources during litigation and possibly after. They are distinguished by mutual mistrust of each partner, poor impulse control, and cycles of reaction and counter-reaction which further erode the possibility of trust. **In cases with abuse, on the other hand, one parent exhibits attitudes and behaviors designed to exert inappropriate control over the other parent.**"

KCSDV takes a neutral position on this bill because we recognize the importance of case management if coupled with screening for domestic violence as well as safety planning. When case managers are well trained on the issue of domestic violence, which this Bill does not mandate, this process can be a helpful buffer for victims and their children. Under HB2039, training on domestic violence is permitted but not required, which alone is very concerning. But, the Bill references but does not require training on "abuse and control dynamics" and, once again, hides the real story of domestic violence by not calling it what it is and requiring specific safety measures.

In summary, HB2039 does not address the essential need to distinguish domestic violence cases (where abuse is occurring against a parent or child) from "high conflict" cases; it does not require a thorough screening for domestic violence; it does not require additional procedures when domestic violence is identified; and, it does not make training and competency on the issue of domestic violence mandatory for the "trained" case manager.

HB2039 is a start but has some serious flaws that we cannot support.

Submitted by,

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