



Testimony submitted to the Joint Committee on the Judiciary  
In opposition to S.834/H.1207 – An Act Relative to Child Centered Family Law  
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The League of Women Voters supports policies and programs at all levels of the community and government that promote the well-being, encourage the full development and ensure the safety of all children. LWVMA opposes these two bills.

LWVMA also supports the consideration by the probate court of a history of domestic abuse when making divorce, child custody, and visitation decisions and ensuring that parents contribute to the support of their children.

These bills propose to significantly rewrite the Commonwealth's current custody law, which allows for an individualized, child-centered approach to child custody as recommended by the Association of Family and Conciliation Courts. "The most effective decision making about parenting time after separation is inescapably case specific. Statutory presumptions prescribing specific allocations of shared parenting time are unsupportable because no prescription will fit all, or even the majority of, families" <sup>i</sup>

Unlike the current law, these bills:

- focus on the "right to parent" rather than the well-being and best interest of the child
- create a "one-size-fits-all" custody determination model with a strong presumption of forced joint custody<sup>ii</sup>
- constrain judges from making custody decisions in the best interests of the child and prevent them from considering indicators predictive of success or failure
- require shared residential responsibility and parental cooperation prior to an evidentiary hearing
- undermine the domestic violence custody presumption laws and other protections for survivors of domestic violence and their children
- dissuade parents from raising legitimate concerns about troublesome parenting styles, safety concerns and the stability for a particular child, based on a presumption that such expressed concerns are from an "unfriendly parent."
- incorporate the concepts derived from the theory of parental alienation despite the theory lacking general acceptance by the authoritative scientific experts<sup>iii</sup>
- have a disproportionate negative impact on low-income litigants who represent themselves in court and may be unable overcome a presumption of shared custody, even when not in the best interest of the children<sup>iv</sup>
- require a parenting plan incorporate accommodations which could financially burden low income families

Given these provisions in these bills, LWVMA opposes them and asks the Joint Committee to take an unfavorable vote on them. These bills are also opposed by several bar associations and domestic violence prevention organizations.

There is not a clear-cut consensus in the research that shared parenting is in the best interests of the child. The consensus is that children of higher-income, better-educated, motivated parents who live in proximity to one another and have flexible work schedules may do better in shared parenting arrangements. These

children also tend to do better in sole custody arrangements. There are strong indications in the research that shared residential responsibility is detrimental to the well-being of very young children even in low-conflict families<sup>v</sup>.

Government research by the Australian Institute of Family Studies after Australia enacted a shared parenting scheme less broad than S.834/H.1207 indicated that over time, legal joint custody had become de facto primary custody with mothers shouldering up to 90% of parenting responsibilities and associated costs without increased financial support. The number of female-headed households with children falling into poverty and relying on government assistance increased.

According to the US Census, for female-headed households with children near or below the poverty line, child support constitutes approximately 62% of household income. Reducing or eliminating child support under a shared parenting arrangement could contribute to an increase in poverty among single mothers and their children.

The bills would have a chilling effect on victims of domestic violence who would be forced into ongoing contact with an abusive partner/parent and discouraged from disclosing justifiable concerns for fear of being accused of “alienating” behavior. A 2013 study of the Massachusetts Family Courts found that 74%-87% of child custody and child support cases involved domestic violence<sup>vi</sup>. Yet, in only a small minority of the cases was domestic violence considered in making custody decisions. Unless and until the Family Courts can address this situation, no changes which would serve to weaken protections for victims of domestic violence and their children like those in the proposed bills should be considered.

Ultimately, S.834 and H.1207 seek a rigid approach to the most sensitive issue after divorce: how can parents who no longer live together continue to raise their children. The League urges you to oppose this rigid policy and keep the current law in place as it is.

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<sup>i</sup> Pruett, Marsha Kline, and J. Herbie DiFonzo. "Closing the Gap: Research, Policy, Practice, and Shared Parenting." *Family Court Review* 52.2 (2014): 152-74.

<sup>ii</sup> Brinig, Margaret F. "Shared Parenting Laws: Mistakes of Pooling?" *Notre Dame Legal Studies Paper*.1426 (2014).

<sup>iii</sup> Hoult, Jennifer. "The Evidentiary Admissibility of Parental Alienation Syndrome: Science, Law, and Policy." *Law, and Policy. Children's Legal Rights Journal* 26.1 (2006); Thomas, Rebecca M., and James T. Richardson. "PARENTAL ALIENATION SYNDROME: 30 Years on and Still Junk Science." *The Judges' Journal* 54.3 (2015): 22.

<sup>iv</sup>Brinig Op. cit.

<sup>v</sup> Tornello, Samantha L., et al. "Overnight Custody Arrangements, Attachment, and Adjustment among very Young Children." *Journal of Marriage and Family* 75.4 (2013): 871-85.

<sup>vi</sup> Driggers, Monica et al. Family Court Approaches to Intimate Partner Violence and Abuse: Stakeholder Perceptions and Implications for Systemic Change. The Boston Foundation/Wellesley Centers for Women, 2013.