
Maura M. Gathers

3722 SW Spring Creek Ln
Topeka, KS 66610
785.383.7747
mauragathers@gmail.com

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Testimony to the Kansas State Senate Judiciary Committee

Kansas State Capitol Building, Room 346-S
Topeka, KS 66612

RE: SUPPORT SB 257 (Fitzgerald)

Dear Members of the Senate Judiciary Committee,

On behalf of the children of the great state of Kansas, I respectfully urge you to support the tens of thousands of Kansas parents who are being marginalized in the lives of their children under the supervision of Kansas' family courts by supporting SB 257.

The goals of shared parenting are to protect the best interests of children and to support the loving bonds they share with both parents after separation or divorce. It is an issue which knows no bounds. It is neither the domain of conservatives or liberals, poor or wealthy, and pays no attention to ethnicity or gender. The issue transcends all demographics. These goals are shared, and should be supported, across all sectors of society.

Fragments of the family law system have become antiquated. Equality between genders has been extended to every corner of American society, with one huge exception: family courts and the related agencies.

Repression is violence. Having witnessed my husband fight for his rights to have equal access to his three children by a former marriage, I have personally experienced the seemingly civilized, yet harmful effects of systematic oppression which only further abuse the alienated parents, their children, and ultimately all of society. My husband is an upstanding member of this community, a principled man, and an incredibly loving and dedicated father. The horrific reality of witnessing his children being stripped of their right to equal access to both parents was demoralizing. No man, or woman, who clearly meets the criteria of a fit parent as deemed by the court should have to spend in excess of \$100,000 and 7 years fighting for something that is already their fundamental right. My husband's children ultimately won-they were granted equal access to both parents. Furthermore it was suggested by the children's court appointed mediator that not only is Mr. Gathers a suitable

parent, he is the better suited parent and should he wish, the recommendation would be made to the court that he assume primary custody. How could the courts have gotten it so wrong the first time, you ask? There was no interest in seeking *clear* and *convincing* evidence of his implied “incompetence”. Our family court system failed those three children, each of whom are still recovering from the psychological and emotional trauma imposed on them by a cataclysmic flaw in family law.

I recognize that shared parenting is not appropriate in all cases. This is why a presumption in favor of shared parenting should be overridable when there is *clear* and *convincing* evidence that it would be harmful to the children. Our family courts are overburdened, often seeing families at the height of a temporary conflict between the parents. This in itself raises skepticism of the ability of our family courts to reliably determine what custodial arrangements are best for the children. Asking a court to focus only on whether there is evidence that shared legal and physical custody would harm the children presents the court with a much more manageable task.

I would like to adopt the notion, that this is not a fathers’ rights movement. Nor is this any sort of parental rights movement. Rather, this is a children's rights movement. Children have the fundamental right to have equal access to both parents and to deny them of such is not only a travesty, it is an infringement on the child’s inherent right to survival and development in which the court has an obligation to ensure. Such a right undeniably warrants deference, and absent a powerful countervailing interest, protection.

I implore you to merely begin by acknowledging that children benefit most from the active involvement of both parents regardless of their marital status. It is critical to recognize that (absent issues of abuse, neglect or abandonment) government policy and laws must be structured in such a way as to maximize the opportunity of all parents to contribute to the social, emotional, intellectual, physical, moral and spiritual development of their children.

Respectfully,

Mrs. Maura M. Gathers

Cc: Senator Fitzgerald, Senator Vicki Schmidt

