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To Whom It May Concern

RE: Proposed Senate Bill 157

Dear Senators:

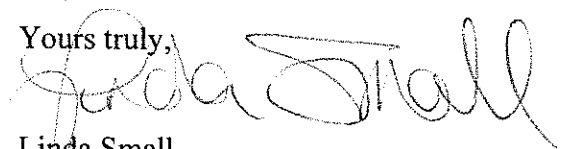
I am writing to express my concerns regarding the pending Senate Bill No. 157 revising the Kansas Family Code Statute.

I first address the proposed revision to K.S.A. 23-3212(c)(1). While I understand the philosophy behind this proposed revision, the reality is the language creates an environment fraught with issue. First, our current statutes allow for ex parte temporary orders. The proposed language establishes an environment that will perpetuate false claims of domestic or parental abuse being made by parties in an attempt to gain an advantage in the court systems. The harsh reality is that the proposed presumption could, and will, essentially separate a loving and caring parent from their child based merely on the statements of the other parent. Furthermore, the proposed language runs afoul of a parties' due process rights to defend him or herself against domestic violence allegations.

Second, I address the proposed revision to K.S.A. 23-3212(c)(2), which is more concerning. Again, this presumption is likely to promote abuse of the system. Moreover, this presumption is contrary to K.S.A. 23-3201, which directs the court to determine custody, residency, and parenting time in accordance with the best interests of the child. The proposed language would negate the court's required consideration of the factors set forth in K.S.A. 23-3203 when addressing temporary orders. More importantly, the proposed language does not set forth the necessary provisions and/or criteria to rebut this presumption. Presumptions of the best interests of minor children should never be made by a court or the legislature. Family courts need the discretion granted to them under statute to hear and consider all facts and evidence regarding the specific circumstances of each family and, based upon those specific circumstances, determine what is in the best interest of minor children.

In sum, I do not support the proposed amendments to K.S.A. 23-3212(c)(1) and (2). Thank you for your consideration of this letter.

Yours truly,


Linda Small
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