

CLOSE THE ABUSER'S EVIDENCE LOOPHOLE

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As any first-year law student (or first-rate *Law and Order* fan) can tell you, judicial standards vary based on the seriousness of the legal petition. A search warrant requires less proof than a death sentence. But, regardless of whether it is probable cause or beyond-a-reasonable-doubt, the courts demand that each standard be met with admissible evidence. Not conjecture, but sound scientific theories and irrefutable facts.

That's everywhere in the judicial system, except for a child in family court.

Where most would expect the highest judicial standards to be employed, when cases literally make the difference between life and death, and against whom society considers our most vulnerable population, non-scientific theories can be used to sway the courts. Sadly, this legal evidentiary loophole is being abused by defense attorneys and putting kids at risk of abuse and neglect.

Abstractly, it is difficult to grasp what a procedural rule means for child safety. Therefore, the harms are best demonstrated by the most pervasive junk science infecting our family courts, PAS or "parental alienation syndrome." In 1985, pedophilia defender Dr. Richard Gardner coined the term to describe when mom talks bad about dad.

There was just one problem with this new syndrome: the scientific community overwhelmingly rejected it. The American Psychiatric Association's Diagnostic and Statistical Manual (DSM) does not consider PAS as a psychiatric disorder. The American Medical Association does not consider PAS as a valid medical syndrome. The National Council of Juvenile and Family Court Judges dismissed PAS for failing to meet the standards for the "soft sciences."

PAS has gained popularity over the past two decades primarily due to its support among father's groups and high-profile advocates like Alec Baldwin. In PAS, they have an official sounding "syndrome" to use in court. Unfortunately, as disgruntled dads added a weapon to their legal arsenal, so did child abusers.

According to a 1996 report by the Presidential Task Force on Violence and the Family, parental alienation can be used by a violent parent to discredit the parent trying to prevent abuse. Dr. Paul J. Fink, past president of the American Psychiatric Association, and Hon. Sol Gothard, retired judge and former faculty member for the National Council of Juvenile and Family Court Judges, said it best in a November 2005 *Los Angeles Daily Journal* opinion piece.

“Parental Alienation Syndrome has been used nationwide by batterers as a courtroom tactic to silence abused children by attempting to discredit their disclosures of abuse.”

Children have been returned to abusive homes based on the claims of PAS. There are documented cases of murder, suicide and prolonged abuse. Consequently, the National District Attorneys Association strongly advises prosecutors to study up on ways to defeat PAS in court.

California legislators can and should permanently disallow PAS from family court by passing Assembly Bill 612. Asm. Jim Beall (D-San Jose) has reached across the aisle to work with Asm. Cameron Smyth (R-Santa Clarita), in authoring legislation that would prevent the use of non-scientific theories in family court. AB 612 is especially powerful because it denounces PAS by name, which will empower child advocates in other states.

“I’m proud to be a co-author of AB 612 because it is an important measure that puts the safety and best interests of children first, while also protecting parents from false accusations made in highly emotional child custody cases,” explained Smyth, the Republican Caucus Chairman.

This morning, the Assembly Judiciary Committee will consider AB 612. It’s a Democrat bill, so our GOP Judiciary committee members (Asm. Jim Nielsen, Asm. Van Tran & Asm. Steve Knight) could benefit from a friendly email reminder that this is a good bill.

Custody cases are ugly. They can be messy and mean-spirited. Precisely because custody cases can be so nasty, they deserve the highest judicial scrutiny, not junk-science.

John Hrabe, a 2007 Publius Fellow with the Claremont Institute, volunteers with Justice for Children, one of the country’s leading voices for abused and neglected children. Learn more at JusticeforChildren.org.