

114TH CONGRESS
2D SESSION

H. CON. RES. 150

Expressing the sense of Congress that child safety is the first priority of custody and visitation adjudications, and that state courts should improve adjudications of custody where family violence is alleged.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 2016

Mr. POE of Texas submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

CONCURRENT RESOLUTION

Expressing the sense of Congress that child safety is the first priority of custody and visitation adjudications, and that state courts should improve adjudications of custody where family violence is alleged.

Whereas approximately 15 million children are exposed each year to domestic violence and/or child abuse, which are often linked;

Whereas child sexual abuse is significantly under-documented, and under-addressed in the legal system;

Whereas child abuse is a major public health issue in the United States, with total lifetime estimated financial costs associated with just one year of confirmed cases of child maltreatment (including physical abuse, sexual

abuse, psychological abuse and neglect) amounting to approximately \$124 billion;

Whereas according to the Centers for Disease Control and Prevention, federally launched, funded and tracked longitudinal research into “adverse childhood experiences” (the ACEs study) has shown that “children who experience abuse and neglect are also at increased risk for adverse health effects and certain chronic diseases as adults, including heart disease, cancer, chronic lung disease, liver disease, obesity, high blood pressure, high cholesterol, and high levels of C-reactive protein”;

Whereas research confirms that allegations of domestic violence, child abuse, and child sexual abuse are often discounted when raised in child custody litigation;

Whereas research shows that abusive parents are often granted custody or unprotected visitation by courts, placing children at ongoing risk;

Whereas research confirms that a child’s risk of abuse increases after a perpetrator of domestic violence separates from a domestic partner, even if the perpetrator has not previously abused the child;

Whereas researchers have documented 175 instances of children killed in a 2-year period by parents involved in divorce, separation, custody, visitation, or child support proceedings, and hundreds more over a period of approximately seven years, often after access was provided by custody courts over the objections of a protective parent;

Whereas scientifically unsound theories such as parental alienation syndrome, enmeshment, and others are frequently applied to reject women’s and children’s reports of abuse;

Whereas in cases involving allegations of family violence courts should rely on the assistance of third-party professionals only when they possess the proper experience or expertise for assessing family violence and trauma, and apply scientifically sound theories;

Whereas most States lack standards defining required expertise and experience for court-affiliated or appointed fee-paid professionals in custody litigation or the required contents of custody-related expert reports;

Whereas custody litigation involving abuse allegations is sometimes prohibitively expensive, resulting in parental bankruptcy, as a result of court-mandated payments to appointed fee-paid professionals, on top of attorneys' fees; and

Whereas the Inter-American Commission on Human Rights found that the United States is failing in its legal obligation to protect women and children from domestic violence: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That it is the sense of Congress that—*

3 (1) child safety is the first priority of custody
4 and visitation adjudications, and courts should re-
5 solve safety risks and claims of family violence first,
6 as a fundamental consideration, before assessing
7 other best interest factors;

8 (2) quasi-scientific evidence should be admitted
9 by courts only when it meets admissibility standards
10 for scientific evidence;

1 (3) evidence from court-affiliated or appointed
2 fee-paid professionals regarding adult or child abuse
3 allegations in custody cases should be considered
4 only when the professional possesses documented ex-
5 pertise and experience in the relevant types of abuse,
6 trauma, and the behaviors of victims and perpetra-
7 tors;

8 (4) States should define required standards of
9 expertise and experience for appointed fee-paid pro-
10 fessionals who provide evidence to the court on
11 abuse, trauma and behaviors of victims and per-
12 petrators, should specify requirements for the con-
13 tents of such professional reports, and should re-
14 quire courts to find that any appointed professionals
15 meet those standards;

16 (5) States should consider models under which
17 court-appointed professionals are paid directly by
18 the courts, with potential reimbursement by the par-
19 ties after due consideration of the parties' financial
20 circumstances; and

21 (6) Congress should schedule hearings on fam-
22 ily courts' practices with regard to the objective,
23 fair, and adjudication of children's safety and civil
24 rights.

