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Legal Loopholes and Unsafe Homes: A Statewide Child Safety Concern

Executive Summary

Washington State's family court system operates under Chapter 26, specifically RCW 26.09.191 to guide custody determinations in cases involving domestic violence and child abuse. It is not governed by the Keeping Families Together Act as many perceive. While most stakeholders acknowledged the statute required reform, the outcome in 2025 was HB 1620, and does not reflect the safety-centered changes advocated by survivors, professionals, and national experts. Despite early drafts informed by evidence-based frameworks such as the Model Code, Kaden's Law, and the Safe Child Act, the final version prioritized institutional interests[1][2]. HB 1620 reintroduces vague language, raises burdens of proof for domestic violence victims, conflates reactions to abuse as abuse itself, and expands judicial discretion that is often misused due to judges untrained in nuances of abuse, all of which may exacerbate existing risks to children and abuse from intimate partner violence and post separation abuse[1][3].

Problem

In 2022, the State of Washington was ordered to pay $98.5 million to the grandparents of the 'Powell Boys,' two children killed by their father during a court-sanctioned visit (In re Dependency of Braden and Charles Powell, 2022)[4]. The judgment affirmed longstanding concerns about Washington's family court failures to prevent foreseeable harm.

Following this, reform discussions focused on RCW 26.09.191. SB 5205, introduced in 2023 by Sen. Manka Dhingra and backed by the Superior Court Judges' Association (SCJA), expanded judicial discretion and omitted key protections for abuse survivors. Survivor-led opposition halted the bill. HB 2237 followed in 2024, initially developed by survivors and aligned professionals, incorporating protections such as presumptions against abusive parents, clear definitions of abusive use of conflict, and limits on judicial discretion. However, these were later stripped by lobbyists and nonprofit stakeholders before the bill's introduction.

In 2025, HB 1620 was introduced as a repackaged version of HB 2237. Despite survivor opposition and bipartisan efforts to amend it via a striker amendment incorporating the Model Code language, the original bill passed and was signed into law. Proponents claimed it was survivor and expert informed, yet the legislation weakened standards, maintained ambiguous definitions, and reintroduced discretionary tools previously shown to disadvantage protective parents (see UNHRC, 2023; NCJFCJ, 2022)[1][2].

Solution

To prevent further harm, the state should amend HB 1620 or replace it with legislation grounded in evidence-based best practices:

- Codify definitions of coercive control, abusive use of conflict, abusive litigation, and post-separation abuse consistent with the Model Code on Domestic and Family Violence (NCJFCJ, 2022).[2]
- Require written findings of fact and law in all custody cases involving abuse allegations to ensure transparency and accountability (RCW 26.09.191; Troxel v. Granville, 2000).[3]
- Reinstate the preponderance of the evidence standard in DV-related custody determinations to ensure access to protection (Santosky v. Kramer, 1982).[5]
- Limit admissibility of discredited theories such as Parental Alienation Syndrome (ProPublica, 2023; APA, DSM-5), in Washington State it has been rebranded as "Abusive Use of Conflict".[6][7]
- Require rigorous judiciary and appointed third parties to be trained in child safety models.[2][8]
- Introduce external oversight and case auditing in high-risk custody cases to track outcomes and ensure compliance with safety mandates.
- Ensure equal representation and due process with evidentiary standards.

Expected Outcomes

- Improved legal consistency and transparency in family court abuse cases.
- Reduced likelihood of child and parent fatalities and re-traumatization of abused adults and children.
- Alignment with national standards on evidence-based judicial practices.
- Enhanced public trust in the integrity of family court decisions.

Conclusion

HB 1620 reflects a departure from the collaborative reform efforts initially supported by survivors and professionals in Washington State. Its passage, despite bipartisan and survivor-led attempts to amend it, indicates a systemic prioritization of institutional continuity over child safety and due process.[1][8]

To prevent further harm and restore trust in the legal system, the legislation must be reevaluated and aligned with constitutional standards and child safety principles.

References

[1] United Nations Human Rights Council, Report on Custody and Violence Against Women, 2023.
[2] National Council of Juvenile and Family Court Judges, Model Code on Domestic and Family Violence, 2022.
[3] Troxel v. Granville, 530 U.S. 57 (2000).
[4] In re Dependency of Braden and Charles Powell, Wash. Ct. App., 2022.
[5] Santosky v. Kramer, 455 U.S. 745 (1982).
[6] American Psychiatric Association, DSM-5 (Parental Alienation not recognized).
[7] ProPublica, 'The Junk Science of Parental Alienation', 2023.
[8] Saunders, D.G., Faller, K.C., & Tolman, R.M. (2012). Child custody evaluators' beliefs about domestic abuse allegations… U.S. DOJ, NIJ.