



National Safe Parents Organization

The Family Court Crisis: Issues and Solutions

Family Court Mishandling of Abuse Allegations and Evidence is Putting Child Survivors of Family Violence in Harm's Way

[U.S. family courts](#) must improve their decision-making in high risk custody cases involving abuse in order to keep children safe from prolonged preventable abuse, and even [filicide](#).

[National Safe Parents Organization](#) (NSPO) is the leading grassroots organization working to advance *evidence-based policies and laws* to improve U.S. family court practices and ensure child safety is at the center of all child custody decision-making. NSPO engages decision-makers, builds community, and raises public awareness on these issues affecting children and safe parents. We work across the U.S. and in tandem with international partner organizations and [leading research organizations](#).

THE CRISIS

Systemic shortcomings in the U.S. family court system are leading to preventable harms to children - and sometimes death. Courts too often fail to appropriately assess the risk of abuse and implement safeguards to protect children. Survivor protective parents and youth widely report they do not feel their safety concerns and evidence are taken seriously in family courts, and they are coming together at National Safe Parents Organization (NSPO) to make needed reforms.

Custody statutes provide insufficient direction for courts for contested custody cases involving abuse allegations and evidence. Furthermore, faulty concepts lacking scientific support are frequently introduced in these cases, leading to poor outcomes for families experiencing domestic violence. Despite some increased awareness and understanding of domestic violence, custody laws and family court practices lag behind the research on child maltreatment within families, but Congress recently adopted an important landmark law to improve state custody laws: [VAWA, Title XV, The Keeping Children Safe From Family Violence Act "Kayden's Law"](#).

[Family court reform experts and litigants alike report that family courts commonly inappropriately handle domestic violence and child abuse claims.](#) Too often courts make decisions which harm safe parents and children who allege abuse in custody litigation. Survivors report their concerns are often invalidated and characterized as lies by court professionals, and judges lack adequate training in family violence matters.

Sometimes ill-equipped or financially incentivized professionals offer expert evidence which misleads courts. Women and children are disproportionately harmed by this.

Research indicates that domestic violence and its harmful effects on survivors, including children, often continues or increases after separation. Some survivors, including children like [Kayden Mancuso and Om Moses Ghandi](#), have been murdered after a family court granted the abusive party custody time—deaths that were preventable.

The problem of intimate partner violence (IPV) is not rare, and it co-occurs with child abuse at high rates. [Research shows](#) that one in five homicide victims in the U.S. were killed by an intimate partner; that 41% of women have experienced IPV at some point in their lives; and that [lawmakers & experts are concerned that sometimes deaths deemed suicides may really be DV homicides, given closer scrutiny](#). A leading cause of death among pregnant and postpartum women in the U.S. is [homicide](#) by a partner or ex-partner.

The financial toll of child maltreatment is also staggering. The Centers for Disease Control and Prevention (CDC) has estimated that the economic toll associated with child maltreatment is between [\\$124 and \\$585 billion across the lifetime](#). The CDC's first estimate of \$124 billion is the most conservative one—the minimum cost that can be assumed—in that it looked only at confirmed child maltreatment cases occurring in one year, to then estimate the lifetime cost for each victim of maltreatment.

Family violence is a public health crisis impacting our entire society; it deserves to be brought forward from behind closed doors and addressed with effective policy reform so that children and families can thrive in peace and safety in their homes and in the world.

Why Are Family Courts Failing to Adequately Safeguard Children at Risk of Abuse?

1. Failure to Consider Past History of Abuse and Recognize Post-separation Abuse.

When making custody decisions, family courts do not adequately consider the history of abuse, including coercively controlling behaviors inflicted by the abuser on the child and the abused parent.

Many assume that once a victim leaves, the abuse stops. However, this is when perpetrators often escalate their tactics to maintain power and control once they lose physical access to the adult victim. Post-separation abuse manifests in various ways in custody litigation, including psychological, emotional, or financial manipulation. Family courts often fail to recognize these tactics, treating both parties as equally responsible for the conflict and seeking to award joint custody. They lack adequate training on post-separation abuse and methods for screening for DV and assessing dangerousness.

2. Court Professionals Lack Expertise in Domestic Violence and Child Abuse.

Family court professionals assigned to contested custody cases - guardians ad litem, forensic evaluators, parent coordinators, family relations counselors - often lack meaningful evidence-based training in domestic violence and child abuse, and make recommendations that do not take abuse properly into account. Appropriate training makes a huge difference. [Research shows](#) that untrained court professionals were most likely to consider a mother's claim of domestic violence to be "exaggerated," while those with training were less likely to embrace this problematic attitude.

3. Weaponization of the “[Parental Alienation](#)” Concept by Domestic Abusers. In an alarming number of family court cases, protective parents, especially mothers, lose custody of their children to an abuser due to questionable cross-claims of parental alienation (PA). [PA is a pseudo-scientific concept](#) first put forward by [Richard Gardner](#) and is used with increasing frequency by abusers and their legal teams to distract from claims of family violence made against them. It assumes children who resist contact with one parent have been “brainwashed” to do so by the machinations of the preferred parent, and that children are not resisting because they are actually at risk of harm.

4. Inappropriately Qualified Experts Presenting Evidence in Abuse Cases and Recommending Questionable “Reunification” Remedies. There is no evidence within the psychological literature of a diagnosable parental alienation syndrome. Despite the lack of adequate empirical research on PA and valid established measurement protocols, PA proponents commonly present themselves as experts to the court, asserting or suggesting that child custody should be transferred to a resisted parent. Many of these “reunification treatments” entirely prohibit or severely limit contact between the child and the preferred parent for periods of months to years. Court orders based on PA claims may include requirements to endure unproven [reunification camps or treatments](#) (RTs) which cost thousands of dollars and put abused children and the preferred parent under the control of a therapist with narrow, PA-based training who lacks family violence expertise. Many [youth](#) who have undergone such court-ordered reunification treatments have reported they were extremely harmful and traumatizing, and in states everywhere survivor youth are [testifying before state lawmakers on Kayden’s Law](#) and related bills to help end the practices.

[National Public Radio \(NPR\)](#) recently interviewed [Dr Jean Mercer](#) and [Danielle Pollack](#) about family court, the parental alienation concept, and reunification camps and treatments. A front page [Wall Street Journal](#) article recently reported on these problems in family courts as well.

Parental Alienation Concept’s Negative Impact in ABUSE cases is Worldwide

- [The United Nations Special Rapporteur on Violence Against Women and Girls 2023 Report on Child Custody](#) calls on family courts to improve handling of abuse evidence and allegations and discontinue reliance on harmful pseudo-scientific concepts such as parental alienation (PA).
- **Empirical research on thousands of U.S. cases shows gender-differences** in abuse - alienation cross claim cases, where mothers alleging abuse experience greater custody losses than fathers. **Case studies** from four countries reflect parenting double standards whereby women who have experienced domestic violence are seen as “alienating” mothers, while the men who have perpetrated the violence are seen as “good” or “good enough” fathers.
- **Department of Justice funded research** shows that biases and reliance on pseudoscientific concepts by custody evaluators and other court professionals who make recommendations to courts can result in minimizing or dismissing family violence claims and risks to children.

Practical Solutions to the Family Court Crisis for Abuse Cases

Harm reduction for families in dissolution and grappling with abuse requires **clear public policy, appropriate laws, and training for professionals using only evidence-based research by recognized experts**, in order for courts to successfully make improved decisions in cases involving abuse. Research shows it is *not* in the “best interest of the child” to be placed in sole custody, joint legal custody, or joint physical custody with a perpetrator of family violence, especially when a safe parent and home is available.

Achieving this goal depends on leadership, communication, and coordination among key stakeholders, including legislators, policy experts, pediatric specialists and other healthcare providers, survivors, courts, attorneys, victim advocates, educators, and volunteers.

Three Powerful Family Court Reforms:

Solution 1. Kayden’s Law

In 2022, the U.S. took a major step forward to better protect domestic abuse survivors in family courts. [**The Keeping Children Safe From Family Violence Act \(“Kayden’s Law”\)**](#) was enacted with the reauthorization of the federal Violence Against Women Act (VAWA) by Congress, with bi-partisan support. Kayden’s Law incentivizes states to dramatically improve child custody laws in four key ways, by:

1. Restricting expert testimony on abuse to only those who are appropriately qualified to provide it: Expert evidence from professionals regarding alleged abuse may be admitted only when the professional possesses demonstrated expertise and clinical experience (meaning direct experience) in working with victims of the types of abuse at issue, whether intimate partner violence, child abuse, or child sexual abuse.

2. Limiting the use of unsound reunification camps and treatments which cannot be proven to be safe and effective: No “reunification treatment” may be ordered by the court without scientifically valid and generally accepted proof of its safety, effectiveness, and therapeutic value, and treatment may not be premised on cutting the child off from a safe parent with whom the child is bonded.

3. Providing evidence-based ongoing training by recognized experts to family court judges and court personnel on family violence, including: (i) child sexual abuse; (ii) physical abuse; (iii) emotional abuse; (iv) coercive control; (v) implicit and explicit bias; (vi) trauma; (vii) long and short-term impacts of domestic violence and child abuse on children; and (viii) victim and perpetrator behaviors.

4. Requiring that family courts making parenting time decisions consider evidence of past and present family violence, including evidence of child abuse and intimate partner violence, and criminal convictions for sexual assault, stalking, and other grave offenses.

The provisions of federal Kayden’s Law have been adopted in eight states thus far, with several more states introducing bills with these provisions. To best protect children, all four pillars of the federal law listed above should become part of child custody laws in each state, as child custody is a *state* matter. [**The National Family Violence Law Center at GW**](#), which developed the federal law, provides technical assistance to states on this matter.

See information below on how to get involved in bringing Kayden's Law to your state.

Solution 2: Coercive Control Laws

Some state [coercive control](#) laws, such as "[Jennifers' Law](#)," require courts to consider coercive and controlling forms of abuse in child custody proceedings. Coercive control laws have been adopted in Hawaii, Connecticut, California, Massachusetts, New Jersey, and Washington, with several other states advancing such legislation. Coercive control laws expand the definition of abuse beyond the traditional incident-based model to consider coercive and controlling patterns of behavior by a domestic abuser.

The National Family Violence Law Center at GW also provides states technical assistance in developing coercive control laws, as well as offers professional trainings on coercive control by leading coercive control experts, including [Dr. Emma Katz](#).

Solution 3: Revised Model Code for Family Court Judges

[The Model Code Revised "Chapter Four: Families and Children"](#) issued by the [National Council for Juvenile and Family Court Judges \(NCJFCJ\)](#) is not a law but provides a statutory framework for promoting effective responses to DV by the criminal, civil, and family courts across the country.

The Model Code recommends positioning the safety of the abused parent and child above all other best interest factors, and including a rebuttable presumption against awarding sole custody, joint legal custody, or joint physical custody to a perpetrator of DV.

NEXT STEPS TO GET INVOLVED AND SUPPORT EFFORTS

For State Lawmakers: Policy and legal experts from the National Family Violence Law Center at GW Law, who provided the technical expertise for Kayden's Law in both the Violence Against Women Act (VAWA) and several states, are available to answer questions and provide technical assistance to interested state lawmakers.

Email: dpollack@law.gwu.edu | www.law.gwu.edu/national-family-violence-law-center | **IG:** [nfvlc_at_gwu](#) | **X:** [@nfvlcgwu](#) | **FB:** www.facebook.com/NFVLC

For Advocates: NSPO provides training, support, and monthly live virtual events for advocates and concerned citizens to bring important child safety legislation and awareness to individual states. Join the NSPO advocacy community at the NSPO website to take action and coordinate with other advocates.

Email: advocacy@nationalsafeparents.org | www.nationalsafeparents.org | **IG:** [🌐 Instagram \(@nationalsafeparents\)](#) | **X:** [@safe_parents](#)

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