

RESOLUTION NO. 2466

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX CALLING FOR REVISION OF THE CALIFORNIA FAMILY CODE AND THE FEDERAL VIOLENCE AGAINST WOMEN ACT

WHEREAS The Town Council of Fairfax CA is greatly concerned about the existence of domestic violence and child abuse in our society and community; and

WHEREAS legislators at all levels of government must do whatever possible to ensure that perpetrators of domestic violence and child abuse are prosecuted and punished for their crimes, and that abuse cases are adjudicated properly; and

WHEREAS legislators at all levels of government must review existing law to ensure that obstacles to the prosecution and punishment of those who commit domestic violence and child abuse are removed; and

WHEREAS such obstacles to the prosecution and punishment of those who commit domestic violence and child abuse have been identified in the California Family Code in Sections 1800-1852, The California Family Conciliation Court Law (See exhibit A), as follows:

- 1) The California Family Conciliation Court Law (hereafter referred to as the CFCCL) was enacted in 1930, in an era in which corporal punishment of wives and children was generally accepted by society.
- 2) Section 1812 of the CFCCL allows the Conciliation Court Judge to move any case to the Conciliation Court.
- 3) Section 1819 of the CFCCL allows for the destruction of records in Conciliation Court proceedings, at the discretion of the Conciliation Court, in cases involving child custody and visitation.
- 4) Section 1830 of the CFCCL empowers the Conciliation Court to take jurisdiction over all controversies that come before it in divorce, separation, child custody and visitation cases, even those involving domestic abuse.
- 5) Section 1830 (b) mandates that all divorce, separation, child custody and visitation cases involving domestic abuse be moved to the Family Conciliation Court.
- 6) Sections 1850-1852 allow for the use of government funding to handle domestic abuse cases as custody disputes, in violation of federal statute.

And;

WHEREAS the above identified sections of the CFCCL have the effect of moving criminal domestic violence and child abuse cases out of criminal court venues in which they can be prosecuted and into civil/family court venues in which prosecution of perpetrators cannot take place, and where documented evidence may be altered or destroyed; and

WHEREAS the practice of moving domestic violence and child abuse cases out of criminal venues and into Family Conciliation Court has resulted in the formulation of nefarious legal strategies which deflect attention away from the behavior of batterers and sexual abusers, and shift blame to parents reporting abuse so as to do harm to abused parents and children; and

WHEREAS such strategies include the use of Parental Alienation Syndrome, which was

originally constructed as a legal defense of child molesters and to shield abusive fathers from prosecution, and has hence been used across the nation to justify granting abusive parents improper custodial rights, to remove children from the protective care of safe parents, to deny due process and parenting rights, and to otherwise punish parents, especially mothers, who complain about the abuse; and

WHEREAS the National Organization for Women has denounced the use of the Parental Alienation Syndrome strategy as unethical, unconstitutional and dangerous; and

WHEREAS the problem of the use of Parental Alienation Syndrome was noteworthy enough to be addressed in the original drafts of the federal Violence Against Women Act II of 2002 (hereafter referred to as VAWA II), specifically in Title II, Section 201 Findings: Limiting the Effects of Violence on Children (17-20), (See exhibit B), which noted that the American Psychological

Association has found no empirical data to support the so-called phenomenon of Parental Alienation Syndrome, that some courts and custody evaluators frequently use such terms to discount the reasonable fear and anger of children toward a violent parent, and that this 'syndrome' and similar ones are used almost exclusively against women; and

WHEREAS the above reference to Parental Alienation Syndrome was inexplicably removed from VAWA II.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Town Council of Fairfax California, speaking for itself as a body and for those residents of Fairfax who agree, that the California Legislature be urged to address the above referenced defects in the CFCCCL to ensure that domestic violence and child abuse cases are prosecuted and that records that might serve as evidence in the prosecution of such cases cannot be destroyed; and

BE IT FURTHER RESOLVED, that the Town Council of Fairfax CA calls upon the United States Congress to reinsert Section 201 Findings 17-20 of the November 3, 2000 draft of VAWA II; and

BE IT FURTHER RESOLVED that the Town Council of Fairfax California, in making these requests of the California Legislature and the U.S. Congress, in no way intends to interfere with the enforcement of Family Code 3027.1, which provides that if a court determines that an accusation of child abuse or neglect made during a child custody proceeding is false, and the person making the accusation knew it to be false at the time the accusation was made, the court may impose reasonable money sanctions. However, the intent does extend to the proper enforcement of Family Code 3027.5, so that no parent shall be placed on supervised visitation, or be denied custody of or visitation with his or her child, and no custody or visitation rights shall be limited, solely because the parent lawfully reported suspected sexual abuse of the child, otherwise acted lawfully, based on a reasonable belief, to determine if his or her child was the victim of sexual abuse, or sought treatment for the child from a licensed mental health professional for suspected sexual abuse; and

BE IT FINALLY RESOLVED that the Town Council of Fairfax California joins the National Organization for Women in denouncing the use of the Parental Alienation Syndrome legal strategy.

The foregoing Resolution No. 2466 was duly passed and adopted at a Regular Meeting of the Town Council of the Town of Fairfax held in said Town on the 6th day of December, 2006 by the following vote, to wit:

AYES: Bragman, Brandborg, Maggiore, Tremaine, Weinsoff
NOES: None
ABSENT: None

/s/ Larry Bragman

MAYOR LARRY BRAGMAN

Attest:

/s/ Judy Anderson

Town Clerk