



In a world where a child's cries echo soft  
and unheard ... We hear.

For Immediate Release

Contact: Eileen King 202.462.4688

### **Protect Children: Fix the Proof Requirements for Final Protective Orders in Maryland!**

HB 700 / SB 823 will change the standard of proof for a final protective order from “clear and convincing evidence” to “preponderance of the evidence.” The Maryland House Judiciary Committee will hear testimony on February 25<sup>th</sup> at 1 pm and the Senate Judicial Proceedings Committee will hear SB 823, sponsored by Senator Jennie M. Forehand (D-17-Montgomery Co.), on March 3<sup>rd</sup>.

Delegate Sue Hecht (D-3A-Frederick Co.), HB 700's champion, urges a favorable report from the House Judiciary Committee: “This bill will increase safety for domestic violence victims and their children who may also be victims of physical, sexual or emotional abuse. Maryland remains the only state in the U.S. requiring victims of domestic violence to meet this extremely high burden of proof.”\*

**Dr. Amy Castillo** will testify in support of HB 700, telling about her experience seeking a final protective order on January 10, 2007. She testified that her children's father, Mark Castillo “...told me what could be worse is if he killed all of us, and then he said actually worse than that, if he killed the children and not me so that I would have to live without them.” Dr. Castillo also testified that she so feared for her children's and her own safety that she had moved out of the house because “[t]he locks are broken out. The window's broken out. The deadbolt's been broken, and so I don't feel safe living in the house...”

Judge Joseph A. Dugan, Jr. denied her request, stating, “There is not clear and convincing evidence that the alleged acts of abuse occurred” and “I am concerned about the three children in this case, and I am concerned about the situation that they are in.”

On March 30, 2008 Mark Castillo, took the couple's three children to the Marriott Hotel in Baltimore and drowned Anthony (6), Austin (4), and Athena (2) in the hotel room bathtub.

Maryland County Sheriff's offices often perform a Lethality Risk Assessment for individuals asking for help. The assessment not only informs law enforcement about the risk of lethality, it helps the victim understand that she (and her children) may be at serious risk for lethal behavior by her partner and encourages her to take appropriate safety steps.

In light of her own experiences, Dr. Castillo observes that “There is a great discrepancy in this state between the encouragement to come forward to fight against abuse and the ability to actually get protection. This contradiction is a discouragement for people to make the move to get out of a frightening situation, and some just stay in an unsafe environment.”

\*The American Bar Association: [http://www.abanet.org/domviol/pdfs/Standards\\_of\\_Proof\\_by\\_State.pdf](http://www.abanet.org/domviol/pdfs/Standards_of_Proof_by_State.pdf)

Eileen King, Regional Director of Justice for Children (JFC) believes HB 700 is urgently needed. “We see women assessed as a high risk for lethality who have been denied a final protective order, despite the alleged abuser making death threats, possessing guns, choking or strangling the victim, hurting the children, destroying property or other violent acts.”

“In Maryland and throughout the United States, other civil court actions are decided by the “preponderance” standard, such as tort litigation for major damage awards” states Professor Joan Meier of the Domestic Violence Legal Empowerment and Appeals Project at George Washington University Law School. “The higher the burden, the more the risk of error is placed on the alleged victim or protective parent. The burden is a direct reflection of whether you believe the majority of petitioners are lying, or not. If you don’t, this burden is inappropriate because it privileges abusers over victims.”

Attorney Joan Zorza, editor of the Domestic Violence Report, agrees: “The high burden feeds into the myths that women are lying, that the alleged abuser’s concerns (especially access to his child) are credible and more important. It is telling that only issues of import to women have to be proven in civil cases by a higher standard of proof, especially when a parent seeks protection against incest or child abuse in custody cases.”

There may be serious, even lethal consequences for abused or at-risk children when a parent is prevented from protecting them.

“Women are encouraged to report child abuse and to seek help and safety for themselves and their children. The denial of a final protective order is often used against them in custody and access proceedings. The abuser demands - and far too often gets – unrestricted access or even sole custody of the children. I see the horrifying consequences to the children in our cases. It’s the perfect Catch 22 – and child abusers/batterers know it!” states Justice for Children pro bono attorney Paul Griffin.

“Shame on any legislator who would look a child in the face, when a court has found that it is more likely than not that the child was abused, and deny that child an order protecting them from their abuser” says Gregory F. Jacob, Partner at Winston and Strawn, LLP who serves as pro bono counsel for Justice for Children cases, including the landmark case Fox v Wills (2006).

JFC’s King is unequivocal: “No excuses! It’s time for Maryland to join the other forty-nine states and affirm our common will to protect children and victims of violence or high risk of lethality. The burden of proof should be preponderance of the evidence, the standard for all other civil court actions in Maryland.”

Amy Castillo prays that fixing the proof requirement will make a difference for other families at risk: “I would never want to see any parent, father or mother, have to go through the Hell that I have been through, and that my children went through. I am hoping that a change in the ability to get a protective order will make a difference in other children’s lives in the future.”

###

**Justice For Children**  
**1875 Connecticut Ave NW Ste 710**  
**Washington, DC 20009**  
**202-462-4688 voice**  
**815-301-5516 fax**  
**[www.justiceforchildren.org](http://www.justiceforchildren.org)**