Feminist Abuse of Domestic Violence Laws

by Phyllis Schlafly November 28, 2007

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The radical feminists have devised a scheme to cash in on a flow of taxpayers' money in a big way. Their good buddy Senator Joseph Biden (D-DE) has just introduced a bill called I-VAWA (International Violence Against Women Act, S. 2279).

I-VAWA earmarks at least 10 percent of its program funds to be granted to a certain type of women's organizations. Biden's press release identifies the favored groups: N.O.W.'s Legal Momentum, Family Violence Prevention Fund, Women's Edge Coalition, and Center for Women's Global Leadership.

I-VAWA would create a new Office of Women's Global Initiatives that would control all foreign domestic-violence programs and funds in the Departments of State, Justice, Labor, Health and Human Services, and Homeland Security.

The radical feminists who would be the recipients of I-VAWA's awesome bureaucratic and money power are very selective about the kinds of violence they will target in 10 to 20 foreign countries. They have no interest in speaking up for the hundreds of thousands of unborn girls in China and India who are victims of sex-selection abortions.

Feminist ideology about the goal of gender-neutrality and the absence of innate differences between males and females goes out the window when it comes to the subject of domestic violence. Feminist dogma is that the law should assume men are batterers and women are victims.

How this malicious ideology plays out in U.S. courts every day is described in a revealing article in the November Illinois Bar Journal. Titled "Sword or Shield: Combating Orders-of-Protection Abuse in Divorce," the article spells out how petitioners can gain unfair advantage in divorce and child custody by using the Illinois Domestic Violence Act.

Political correctness requires that the Illinois Bar Journal use gender-neutral words, but anyone familiar with this subject knows that the term petitioner overwhelmingly means wife and respondent means husband.

Orders of Protection (OP) were designed to be a "shield" to protect against domestic violence. This article bluntly describes how a petitioner can use an OP as a "sword" to obtain child custody in an expedited manner, to restrict a father's visitation with his children, and to gain exclusive use of the home.

The petitioner simply bypasses the Illinois Marriage and Dissolution of Marriage Act (IMDMA) and instead goes to court under the Illinois Domestic Violence Act (DVA) because that statute has a clear bias. As artfully described in the Illinois Bar Association article, it is "petitioner-friendly."

Orders of Protection, available at any courthouse, are easy to file even by non-lawyers, and rarely require any fees. The DVA permits non-attorney domestic-abuse advocates to sit at counsel table and give confidential and privileged advice to the petitioner.

It's also much easier to get an OP, and once granted along with exclusive possession of the home, the law clearly favors the wife maintaining child custody and the home unless the husband is able to present a preponderance of evidence that the custody arrangement is a hardship to HIM. The divorce act gives no such preferential presumption.

Accusations of abuse and demands for an OP are extremely useful in denying child custody to the respondent. The DVA includes "a rebuttable presumption that awarding physical care to respondent would NOT be in the minor child's best interest."

The DVA requires that a petition for an OP be expedited, and judges typically allot only 15 or 20 minutes to each case, which is not enough time to hear all the relevant evidence. Resolving a custody decision in a divorce proceeding usually requires many months.

The Illinois Bar article concludes: "If a parent is willing to abuse the system, it is unlikely the trial court could discover (her) improper motives in an Order of Protection hearing."

Under the divorce law, a parent is entitled to "reasonable visitation rights." But he loses those rights in an OP hearing under the DVA because the standards of evidence do not apply and the court has "wide discretion to restrict visitation."

The greatest potential for abuse of the system is that a petitioner can circumvent the divorce law and thereby restrict visitation by the other parent. The longer a parent is able to retain temporary custody, the greater her opportunity to obtain permanent custody.

The use of Orders of Protection is a "high stakes matter," not only because it can irrevocably affect the lives of the children, but because violating an OP is a crime for which the respondent can be jailed.

The Law Journal's advice to lawyers on how to prevent their clients from being railroaded as a victim of OP is pretty pathetic: "spend time and money."

Further reading: