

KAYDEN'S LAW:

Enhanced Risk Assessment and
Intervention in Pennsylvania Child Custody

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1

Objectives of this presentation

KAYDEN'S LAW

- Explain the intended purpose of the law
- Define the safety enhancements and when they apply
- Identify procedural steps and judicial requirements
- Discuss unintended consequences
- Articulate at least 3 possible remedies

2

KAYDEN KATHRYN MANCUSO
2010 - 2018



3

What are the Kayden's Law changes?

- Enhanced Risk Assessment
- Consideration of Abuse in Custody Decisions
- Training for Judges and Legal Professionals
- Restrictions on Custody

4

WHEN do the safety enhancements apply?



After considering the enhanced custody factors (5328), criminal conviction (5329), child abuse/involvement with protective services (5329.1) and criminal charges (5330):

1. If the court finds a history of abuse of the child or a household member by a party or
2. If the court finds a present risk of harm to the child or an abused party; and
3. The court awards any form of custody to a party who committed the abuse or who has a household member who committed the abuse
4. Once it applies, there is a rebuttable presumption that the abuser poses a risk of harm AND the Court must document preventative measures.

5

Weighted Consideration of Abuse Evidence

Separate Hearings for Abuse Allegations

Rebuttable Presumption for Supervised Visitation

Protection Orders where there is a judicial finding of abuse

Expanded Range of Offenses

- Enhanced Risk Assessments

6

▪ Weighted Consideration of Abuse

- Consideration of all abuse history and enhanced *criminal record
- Any survivor, not just parties to this action or to the subject child
- Involvement with child welfare as it relates to any child
- "Violent or assaultive behavior committed" (not conviction)
- Rebuttable presumption of supervised contact
- Kayden's Law enhanced criminal conviction now includes: simple assault, stalking, interference with custody, recklessly endangering, animal cruelty/fighting and human trafficking

7

Mandatory Training for Judges and Legal Professionals

Dynamics of domestic violence and child abuse
Methods for conducting thorough risk assessment
Collaboration with social workers and counselors
Trauma informed approach to custody matters
Counterintuitive behavior of survivors of abuse



8

RELIEF AVAILABLE

Professional or non-professional supervised custody
Affidavit of accountability colloquy for non-professional supervisor
Restrictions on time of day, hours and place for custody
Appointment of a qualified professional for intervention services
Forensic risk of harm assessment and possibly ongoing treatment



9

The Role of Qualified Professionals

- Forensic Evaluation
- Detailed reports of abuse/crimes history
- Collateral contacts/legal pleadings
- Collaboration with legal professionals
- Thorough documentation and testimony
- Provide a comprehensive written report
- Recommend additional programming
- Apply standard testing with explanation
- Expert opinion as to risk of harm and/or counseling required

10

Unintended consequences

Child Testimony, **Survivor** Subject to Enhancement, **Pressure** on Parent-Child Relationships, **Strain** on Judicial Resources, Potential for **False Allegations**, Increased **Complexity** in Custody, Financial **Burden** on Parents, Emotional **Toll** on Family, Potential for **Bias**, **Overburdened** Support Services, **Increased** Litigation, Potential for **Misuse**, Mental Health **Impact**, Resource Allocation, **Long-Term Effects** on Children, Bearing on **Social Services** and **Child Welfare**, Education Influences, **Effect** on Other States, **Rigorous** Evaluations, **Privacy** Concerns

11

SCENARIO

Does **Kayden's Law** apply?

In child custody, **which facts are relevant** to Kayden's Law?

Would the **rebuttable presumption** apply?

What are some types of **relief** that could be added to a custody order for safety?

What **unintended consequences** could there be?

Who can be protected?


Protecting Children Under Kayden's Law: A Case Study

Meet David, a social worker in Pennsylvania, who is counseling a young boy named Alex. Alex's parents, Maria and Tom, are in the midst of a contentious custody battle.


- Maria has provided evidence of Tom's recent history of emotional and physical abuse, raising concerns about Alex's safety.
- Tom has an ex-wife who raised the same concerns 15 years ago
- Tom has been convicted of terroristic threats to a co-worker
- Alex has seen Tom push Maria into a wall and break her things
- Maria has a simple assault charge for fighting back against abuse

12


QUESTIONS
OR
DISCUSSIONS?



13



Thank you for time and interest AND for
engaging with me today.



Deborah Dresser Neiderer, Esquire

If you or someone you know is a victim of
abuse, please call **National Domestic
Violence Hotline** (Nationwide)
24/7 Hotline 1-800-799-SAFE (7233)

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14
