



KyrasChampions.org

ABOUT KYRA FRANCHETTI

Kyra loved watching Elmo, Mickey Mouse, and "Kyra TV," (videos of herself, her mom, and her friends). Kyra loved sprinklers at the park and bubbles – blowing them, catching them, and taking bubble baths. She often requested "moo-sic" so she could dance. She loved to draw and play with play-doh and puppies. Her smile lit up a room and her giggle was infectious.

Kyra's Law Prioritizes Children's Safety in Custody Proceedings (A.3346A - Hevesi / S.3170A - Skoufis)

KYRA'S CUSTODY CASE AND MURDER

Kyra was ordered by the court to have unsupervised visits with her father, despite repeated reports and eyewitness accounts of his anger and rage issues, suicidal ideation, stalking and history of coercive tactics and abuse. During two years of child custody hearings in Nassau County Family Court, Kyra's mother repeatedly pleaded with the court to

acknowledge the risk of harm to Kyra. The court dismissed these urgent pleas to protect Kyra. Days after the judge granted her abusive father overnight visits, Kyra was shot her to death while she slept by her abusive father who then set his house on fire and killed himself. Kyra's murder was entirely preventable.

THE PROBLEM

Kyra's murder is not a isolated event. Kyra is one of 23 children murdered by the own parent during a custody case, separation, or divorce in New York State in the last 6 years alone. This number do not take into account the staggering number of children who are court-ordered into the home of a parent who is sexually, emotionally, and/or physically abusing them.

A 2020 *Times Union* investigative series by Chris Bragg highlighted six cases since 2014 where children were murdered after a parent filed a petition in New York's family court alleging abuse. They included the deaths of Davonte Paul (aged 6) of Troy; Gabriella Collins (aged 6) of Syracuse;

Jovani Ligurgi (aged 2) of Long Island; Autumn Coleman (aged 3) of Queens; Thomas Valva (aged 8) of Long Island; and Kyra Franchetti (aged 2) of Long Island.

Non-offending parents are losing custody of their children at alarming rates. A parent's pleas to protect a child are mistaken for false claims made for the purpose of obtaining sole custody. In fact, DV advocates routinely tell DV survivors not to raise family violence allegations in court because it invariably works against them. New York's judges must take these allegations seriously, rather than dismissing them out of hand.

BILL SUMMARY

Requires the court to consider a child's safety when making a decision regarding child custody and visitation; directs presumptions that may be made by the court and

admissibility of certain evidence in such cases; requires court officials to take part in training to handle such cases regarding domestic violence and child abuse.

DETAILS OF KYRA'S LAW

Kyra's Law will amend the Domestic Relations Law and the Family Court Act to:

- Require courts to conduct a review of any findings or allegations of child abuse, domestic violence, heightened danger and risk of lethality before issuing permanent and initial orders of custody or visitation, or successive temporary orders of custody or visitation. The bill includes a series of considerations that should be reviewed, including allegations of violence, a history of violence perpetrated by either party, police reports, use or threats to use a weapon, coercive control, etc. Should the court determine limitations or restrictions of a party's custody, visitation or contact with the child are necessary, the court would be required to set forth conditions in the order that prioritize the avoidance of significant risk to the child's safety;
- Require courts to set forth the reasons for their decision-making on the record and in writing. Parties would have the ability to appeal any orders of custody or visitation or the conditions or restrictions contained within such orders. Appeals would be heard on an expedited timeframe;
- Clarify that, when evaluating best interest factors of the child for issuance of a final order of custody or visitation, the court shall prioritize and promote the safety of children by assessing whether either parent is more likely to protect the safety of the child and whether either party poses a significant risk to the safety of the child; any findings or allegations of abuse, heightened danger and risk of lethality; conviction of family offenses; use or threats to use a weapon; threats to harm or kill the child, the other parent, or companion animals; and incidents of stalking, cyber stalking, or coercive control;
- Restrict the court from ordering joint legal custody unless the parties' consent or where it has been determined that the parties can effectively communicate, cooperate with one another and make joint decisions concerning the child. In no case could a court order joint legal custody when there is an existing full stay away order of protection or when there is an existing temporary order of protection entered *ex parte*;
- Prohibit the court from awarding custody or visitation to a party who jeopardizes the safety of the child;
- In cases involving DV or child abuse, restrict the court from presuming that a child's reluctance to interact with a parent was caused by the other parent, and restrict the court from ordering custody to a parent for the purpose of improving a relationship between the child and such parent;
- In cases involving DV or child abuse, restrict either party from alleging the other parent is intentionally alienating the child from them; and,
- Enhance current training requirements for judges, referees and other hearing officers handling child custody proceedings and require such training to be developed and offered by the state Office for the Prevention of Domestic Violence, NYSCADV and other nonprofits with expertise in child abuse and gender-based violence, in consultation with the Office of Court Administration. Enhance current training requirements for judges, referees and other hearing officers handling child custody proceedings and require such training to be developed and offered by the state Office for the Prevention of Domestic Violence and DV and child abuse advocates, in consultation with the Office of Court Administration.

KYRA'S LAW COSPONSORS

Assembly Members - Anderson, Angelino, Aubry, Barrett, Blumencranz, Bores, Brabenec, Brown K, Burdick, Burgos, Clark, Conrad, Cook, Cruz, Cunningham, DeStefano, Dickens, Dinowitz, Durso, Epstein, Fahy, Fitzpatrick, Gandolfo, Gibbs, Giglio JA, Gonzalez-Rojas, Gunther, Hawley, Hevesi, Hunter, Jackson, Jacobson, Jean-Pierre, Jensen, Jones, Kelles, Lavine, Lupardo, Maher, Manktelow, McDonald, McDonough, Mikulin, Morinello, Otis, Paulin, Pheffer Amato, Ra, Ramos, Reyes, Rivera J, Rosenthal L, Seawright, Sillitti, Simon, Simpson, Smith, Steck, Stern, Stirpe, Thiele, Zinerman.

Senators - Borrello, Cleare, Comrie, Cooney, Gounardes, Harcham, Hinchey, Hoylman, Krueger, Martins, Mattera, Murray, Oberacker, Palumbo, Ramos, Rolison, Sepulveda, Skoufis, Weber, Weik.



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