

# The Reasons Kidsong, Inc.\* is Needed

(\*working corporate name; draft: 4/24/02)

A developmental psychologist might define "home" as follows:

"Home"

A Kid's Definition

"Home" is a place where you are, as an infant, fed, bathed, hugged, and have your medical and other problems fixed; where you have two parents who value you for what you are, and for what you're trying to become; a place where no one lies to you and where you are free to tell the truth without fear of rejection; a place where, as you grow, the "rules" are the same for you and for your parents (excepting only their bedroom, which is mysteriously out of bounds); where the rules are also flexible and may be changed to reflect your growing independence; where everyone, including you, is expected to contribute to the household by doing chores; where your ideas and feelings are respected and where, finally, you are free to leave without feeling any guilt whatsoever for going off to become the responsible, loving, adult, your upbringing has taught, and allowed, you to become.

--Leigh Travis, Ph.d.

On the other hand, here's the legal interpretation of "home."

Black's Law Dictionary defines "home" as follows:

One's own dwelling place; the house in which one lives; especially the house in which one lives with his family; the habitual abode of one's family; a dwelling house. Mann v Haines, 146 Kan. 988, 73P.2d 1066, 1072. That place in which one in fact resides with the intention of residence. Or in which he has so resided, and with regard to which he retains residence or to

which he intends to return. Place where a person dwells and which is the center of his domestic, social and civil life. Restatement of Conflicts, Second, para. 12. "Home" , within state permitting deductions for income tax purposes of amounts expended for meals and lodging while away place from home, means "tax home", which is person's principal place of business or employment. Egan v. U. S. D. C. Del., F. Supp. 1227, 1230.

Which of the two definitions of "home" most fits a child's "reality"?

## I

### The Horror

The legal definition of "home" not only ignores the psychological definition of "home," above, it flagrantly ignores another biting-cold reality of childhood.

The greatest horror to befall a child is—

What?

Being yelled at?

No.

Being deprived of an allowance?

No.

Being spanked?

No.

Being sent to bed without dinner?

No.

Losing a pet?

Close, but no.

Is the horror a legal question of contract or property?

No.

Of conflicting copyright laws?

No.

Of a legal question of bankruptcy jurisdiction?

No.

None of the above.

What, then is “the horror” of childhood?

As every developmental psychologist knows, the greatest horror for a child—is the terror of abandonment.

Don't attorneys and judges know this meaning of the horror for children?

Maybe yes, maybe no.

Attorneys and judges practice law, not developmental psychology.

Thus, how can an adversarial system, by its very definition and adversarial nature, address the child's horror of being orphaned?

How does an adversarial system that makes its livelihood arguing conflicts (and thus creating more conflicts) help sooth and calm the terrified child of divorcing parents?

With “Arguments at law”? “Motions”? “Interrogatories”? “Admissions”?

Yes, those are some of the “solutions” used in the court system, all of them making the horror worse for the child. Furthermore, the adversarial “*solutions*” *serve to further antagonized the divorcing parties, often turning the two “sides” into armed camps, making the orphaning of the child all the more likely* . Thus, the adversarial legal system, by its very structure and practice, is virtually incapable of doing anything except tear the child apart by, literally, making he child a psychological orphan..

## II

### The State of Psychology in 2002

The “Best Interest of the Child” (below) was put into law some THIRTY-TWO (32) years ago. At that time, one can presume, the state of psychological knowledge underlying such factors as “guidance” (MCLA 722.23{b}) was outdated and in need of modification before the “Act” was even conceived.

Thus, what is needed in child custody cases is a system of guidance and wisdom based on on-going, and changing psychological knowledge about how children grow and develop psychologically (MCLA [d]).

All services of the proposed organization (below) will be based on the latest, verified and validated research in clinical and developmental psychology.

The organization must be focused, top to bottom, on what is in fact the best interests of the children of divorce, and all of the corporate structure, its staff and personnel, be directed towards the one, single, goal of having the divorce of the parties do minimal harm to the child. The parents can “split,” but they cannot split their child in the process. They must maintain their psychological “home” for their child.

## III

When parents decide to divorce, what new world awaits them and their child in the Michigan court system?

The twelve (12) points of the 1970 Michigan child custody act have virtually nothing to do with law, *per se*, but rather describe matters of developmental psychology (MCLA 722.23(a), (b), (d), (h), (i), (j)) and clinical psychology or psychiatry and medicine (MCLA 722.23(g)).

Here is the complete text of the act:

## “Best Interests of the Child”

MCLA 722.23(a) The love, affection, and other emotional ties existing between the parties involved and the child.

MCLA 722.23(b) The capacity and disposition of the parties involved to give the child love, affection, and guidance to continue the education and raising of the child in his or her religion or creed, if any.

MCLA 722.23(c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

MCLA 722.23(d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

MCLA 722.23(e) The permanence, as a family unit, of the existing or proposed custodial home or homes.

MCLA 722.23(f) The moral fitness of the parties.

MCLA 722.23(g) The mental and physical health of the parties involved.

MCLA 722.23(h) The home, school, and community record of the child.

MCLA 722.23(i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.

MCLA 722.23 (j) The willingness and ability to each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents.

MCLA 722.23 (k) Domestic Violence, regardless of whether the violence was directed against or witnessed by the child.

MCLA 722.23 (l) Any other factor considered by the court to be relevant to a particular child custody dispute.

Of these 12 points only one—MCLA 722.23(c)--has a mention of the word “law” in it and maybe one (MCLA 722.23(e)--“permanence”), has the potential to be argued as a matter of law, strictly speaking. Factor “l” refers only to the discretionary powers normally accorded to judges in the civil and criminal court systems.

That means that only approximately one (1) percent of the “Best Interests” factors has to do with law: the remaining NINETY (plus) percent belongs more appropriately to the fields of clinical and developmental psychology (and sometimes psychiatry): factor “f” belongs primarily in the field of religion.

If over 90% of the law of child custody cases refers to psychology, then what in heavens name are child custody cases doing in the legal system?

Attorneys are trained to argue matters of contracts and property.

But children are persons with feelings, not contracts or pieces of property. Are children being regarded by attorneys and judges as pieces of property to be divided?

But who in the court system makes these psychological decisions?

Attorneys.

Attorneys trained in developmental psychology?

No.

Do Michigan law schools provide their law students with the opportunity to major in domestic law so that, upon graduation, said students can rightfully claim specialized training in domestic law (as “family law” attorneys)?

No.

Do Michigan law schools offer cognate courses in developmental, clinical psychology and psychiatry?

No.

Therefore, are attorneys untrained in domestic law or clinical/developmental psychology or psychiatry practicing psychology and psychiatry without a license in child custody cases?

It most certainly appears to be the case.

If so, the how can the Michigan court system presume a scintilla of wisdom to decided child custody cases?

Answer: Only by committing the fraud of practicing developmental psychology without the necessary training and license to do so.

## IV

### A Solution

Child custody cases should no more be decided by untrained attorneys in an adversative court system than should brain surgery be performed by butchers.

What is happening right now in the Michigan Court system (and, we presume, throughout the country) is an outrage. Judges--who are attorneys with robes on—are making psychological decisions, and these judges have no more training in developmental and clinical psychology and psychiatry than do the attorneys practicing child custody “law” who stand before said judges.

The court system has no business making judgments on the mental health, parenting capacities and dispositions of the adults seeking a dissolution of their marriage contract. (a legal matter). The only proper business of the court is the dissolution of the legal contract of marriage.

Everything else—excepting only criminal matters—belongs in the fields of development and clinical psychology and psychiatry.

Thus, a new organization is needed to serve divorcing parents and their vulnerable children. The suggested mission statement of the Kidsong Organization is as follows.

#### **MISSION STATEMENT OF KIDSONG, INC.\***

It will be the mission of this non-profit (501.c[3]) organization to: (a) effectively remove adversarial analysis and adjudication of all child custody (divorce) cases from the procedures of the circuit court system by providing the court with expert written input and recommendations from developmental and clinical psychologists and psychiatrists (where appropriate) as provided

for in Michigan law (MCLA722.27[d]), charged for on a “sliding scale” basis; (b) to offer its expertise before marriage and before the filing for divorce and, following divorce, to all members of the divorced family; and (c) to engage in on-going legal and psychological research into the causes and the remedies for various kinds of family dysfunction, publishing its findings for both the academic and popular cultures.

## V

### THE STRUCTURE OF KIDSONG, INC.\*

The organization will have five (5) major divisions:

1. Management and Services
2. Education, public relations and publications
3. Legal (state and federal) and psychological research
4. Legislative
5. Ethics

### POSITIONS AND CREDENTIALS

#### Positions

President

Vice President

Corporate Economic Officer (CPA degree level)

Corporate Attorney

Secretary Treasurer

Maintenance Supervisor

Security Chief

## II CREDENTIALS REQUIRED FOR EMPLOYMENT

- (1) All employees of the organization MUST be:
  - (a) Divorced with custody and/or joint custody of child;  

or
  - (b) married with child or with grown children;
- (2) Staff members must ALL have a high school degree;
- (3) Counseling staff must be licensed in the State of Michigan and possess an ACSW, Ph.d. in social work or clinical or developmental psychology, or be a licensed, Board-certified psychiatrist;
- (4) All positions require a confidential background/security check prior to employment (see also requirements for specific positions); and
- (5) The president and vice president must possess Ph.d. level degrees in a field related to the goals of the organization and meet all other staffing requirements.

## III EDUCATION DIVISION

Director

Assistant Director

Secretary

## IV RESEARCH DIVISION

Director

Assistant Director

Secretary

- (A) Family law research: Constitutional Law; Civil Law; Developmental psychology;  
Juvenile  
delinquency/treatment

## V LEGISLATIVE ACTION

Director

Assistant Director

Secretary

VI ETHICS

Director

Assistant Director

Secretary

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## SERVICES

Ideally, we would all have loved to have been raised according to the definition of “home,” above.

Absent such upbringings in our divorcing clients, we offer the following services.

### Public Services

- Presentations: various speakers on child development
- Parenting/birthing classes
- Cable TV show on parenting
- Publications on divorce/parenting

### Divorce Custody Evaluations

All court-ordered child custody evaluations will include:

MMPI and other “objective” tests

Clinical interviews with ALL participants

Team analysis of findings/tentative recommendations

Written report (including legal recommendations as per staff attorney review) and recommended Judgment of Divorce.

## PRE- AND POST-DIVORCE THERAPIES

- One-on-one therapy (by contract with therapist).
- Conjoint marital/family therapy
- Group therapy:

Six-eight people

10-12 people

20 people

CLT