

DOCUMENT: 3 of 3

Saturday Today

Mar 13, 1993

7:00-9:00 AM

NBC

Copyright © 1993, National Broadcasting Company, Inc. All Rights Reserved.

Segment: Interview: Joe LaMacchia and Martha Fineman on **secondhand smoke**

Cost: \$013.00

Nielsen: N/A

JACKIE NESPRAL, co-host:

Now that Hillary Clinton has made the White House a smoke-free zone, there are many who want to extend that to a lot of other places. Many parents now consider cigarette smoking around kids a form of child abuse, and some of them have started going to court to stop ex-wives or husbands from smoking in the same room as their kids. Joining us now is Joe LaMacchia of Parents Against **Secondhand Smoke** and Professor Martha Fineman, a professor at Columbia Law School.

Welcome and thank you very much for being with us.

Now, Mr. LaMacchia, what prompted you to start this organization, Parents Against **Secondhand Smoke**?

Mr. JOE LAMACCHIA: Well in the fall of 1990, my three-year-old boy was very congested, and when I would have him on the weekends, I would notice by Sunday night, when I, was ready to take him home, he was clearing up. As time went on, I started to realize that the cigarette smoking from his mother was congesting him. And I knew it...

NESPRAL: How did you know that that was the cause?

Mr. LAMACCHIA: Because it was pretty simple. When I picked him up, the odor was incredible. He told me one time on Thanksgiving morning, 'I hate mommy's smoke.' And when I was watching 20/20 one time, I saw Dr. William Kahan on TV speaking about **secondhand smoke** with children, and I started to realize that this was--I knew something was wrong with my son, but I knew now that I had to do something.

NESPRAL: So you started the organization?

Mr. LAMACCHIA: Right. I started the or--I went to court. I got a court order by mutual agreement, they call, with my ex-wife. And the Dr. Kahan told me, he said, 'you can't stop now, you've got to put together a little booklet or something to show people how you did it.'

NESPRAL: And you got a good response?

Mr. LAMACCHIA: Oh, my phone's been ringing, I had a PO box it, and it's been over a year now and it's going good.

NESPRAL: Now Professor Feinman, you don't agree with the court's intervention in custody cases?

2024708863

Ms. MARTHA FINEMAN (Maurice T. Moore Professor Of Law): Well, I think that there are two sets of problems. One is how do you define the scope of this prohibition and with's going to be included and excluded? Are we going to have vegetarians arguing they are better custodians because they don't serve their children red meat or they don't serve meat? So that's one set of problems. Even with smokers, is it only the parent's smoke that we're concerned about or is it grandparents that smoke? What about friends' parents that smoke? Do parents have to monitor their--their children, their exposure to smoke?

And I think there are another set of problems also in addition to this definition, and that is how courts can implement this kind of policy. And are courts--custody courts, family courts the appropriate place for this to be implemented?

NESPRAL: The facts are, though, last year the National Center for Health Statistics found that children living with cigarette smokers have nearly double the risk of being in fair or poor health than those never exposed to **smoke, and there have been 3,800 lung cancer deaths a year from secondhand smoke**. Some people would say that this is a form of child abuse.

Ms. FINEMAN: Well, I agree that the statistics are startling and we should be concerned and there should be education about this. However, in the context of custody cases, as this one was, what about uncontested custody cases, for example? Should the judge always ask if people are smokers, and if they are, what if they're both smokers? Should the state then take custody of the children? What if the nonsmoking parent doesn't want custody? Should the judge force that person to have custody because it's child abuse?

And, in fact, why limit it to divorce? Why not intact families? If there is a smoker or two smokers in an intact family, then shouldn't we start an abuse proceeding? This is legal conduct in this country. It might be unfortunate, it might be harmful, but it is legal conduct, and to argue it is in and of itself the determining factor in abusive conducts seems to me to be problematic.

NESPRAL: Mr. LaMacchia, a lot goes into being a good parent. Do you think that the fact a parent smokes should be a--should play a major role in a custody case?

Mr. LAMACCHIA: Well, I think that when you to to the courts and you listen to the way they word things, especially custody, it's supposed to be in the best interest of the child, OK? Now, I've said before the parent doesn't have to stop smoking. All we are looking for is that they stop smoking around the child. And when--C. Everett Koop recently called it a form of child abuse and there's so much information. And we don't, you know, there's--there's plenty of information and it's time to move forward now I think.

2024708864

NESPRAL: I'd like to take the kid's position. I mean, a kid goes through a lot when their parents get divorced. Isn't this just adding another pressure to the child?

Mr. LaMACCHIA: Adding more pressure to the child? I see it as another pressure to the child when they're gagging and coughing and on Ventolin and Brethaire spray and earaches and pneumonia, bronchitis, and the list goes on and on.

NESPRAL: Professor, you are against the court's intervention in these types of cases. What answers do you have for concerned parents who are worried about their kids' health?

Ms. FINEMAN: Well, I think that you--if you don't have custody and you're dealing with a custodial parent who smokes, certainly you want to try and talk to them, try and do this. I believe that most parents act in their children's interest. I think that that's true, and that you try to work with somebody who's doing this. But the notion that family law courts are going to supervise this conduct seems to me to be very problematic. And I agree with you, the most harmful thing for children is when their parents continue to fight after a divorce or around the divorce.

NESPRAL: Professor, I'm afraid we've run out of time. Thank you very much for being with us this morning. Mr. LaMacchia, thank you.

And we'll have more after these messages. But first, this is TODAY on NBC.

INDEX: Smoking
Children
Parents
Lawsuits

2024708865