CIRCUIT COURT OF THE STATE OF OREGON
FOURTH JUDICIAL DISTRICT
MULTNOMAH COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OR 97204-1123

MAUREEN McKNIGHT
JUDGE

PHONE (503) 988-3986
FAX (503) 276-0967
maureen.mcknight@ojd.state.or.us

TESTIMONY REGARDING SB 318—EQUAL PARENTING TIME

Before the Senate Judiciary Committee of the Oregon Legislature
March 6, 2019

Submitted by:
Maureen McKnight, Circuit Court Judge
Multnomah County

Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

My name is Maureen McKnight and I am a Circuit Court Judge in Multnomah County. I have served in the Family Law Department there the last 17 years after practicing family law exclusively as an attorney for 22 years. I am the immediate past Chief Judge of that department and speak today for myself and those 13 colleagues rather than the Oregon Judicial Department.

We oppose codifying the presumption for equal parenting time proposed in SB 318.

Maximum contact with both parents is a laudable goal but:

- **any ideal has to be applied <u>in the reality</u>, and here that means separate households.** A child is not a prized painting whose possession can easily be alternated in opposing weeks, months, or years.

- **50-50 parenting time between two households is simply not possible – or appropriate -- for many, many children. Individualized plans are needed.** Each child and family situation present a different constellation of factors and require a parenting plan designed for specific, unique needs rather than a "one size fits all" focus. Many, many factors affect a parenting schedule, including a child's age and school schedule, if any; developmental stage or any special needs; the existence of siblings (half of full); how close the parents live to each other; whether the parents are able to put aside their personal conflict to communicate effectively with each other about their children; and the existence of any risk factors including domestic violence, cognitive impairments, mental health issues, ongoing substance abuse, or other barriers to safe and healthy co-parenting. The list goes on and on. Accommodation of all these variables is an individualized balancing, best done by the parents but when they aren't in agreement, by a trier charged with a "best interests" imperative. The focus must be on what's best for the child, not what is "fair" for the parents. All of my colleagues and I have seen parental proposals for 50-50 parenting time that include steps such as exchanging the child at 3

a.m. at one parent's work place parking lot, as that was the only way to make the plan come out 50-50 and be "fair" to that parent. Policy presumptions that assume untruths, even rebuttably so, would encourage this type of proposal instead of a *child*-focused plan.

- **The Oregon Legislature has already codified the appropriate directive,** one that requires judges to:

  "assure minor children of frequent and continuing contact with parents who have shown the ability to act in the best interest of the child and to encourage parents to share in the rights and responsibilities of raising their children after the parents have separated or dissolved their marriage." ORS 107.149.

  Since 1987, this directive has driven family law practice and allows judges to develop, when parents cannot agree (which we always prefer) an individualized plan that takes into account all of those variables I mentioned in maximizing contact in the children's best interests.

We do endorse an additional element in the statutes. We support and try to practice procedural fairness in our courtrooms. A key component of this evidence-based principle regarding trust and legitimacy for an institution is for participants, here parents, to understand the *basis* for decisions. We believe it would be appropriate to **require judges to state the reason why a 50-50 parenting plan is not in the best interest of a child or sibling group, when we deny such a request from a parent.** This is not currently the law but we believe strongly that parents are entitled to know the reasons behind the judges' decision.

Thank you for considering my comments.

Respectfully submitted,

Maureen McKnight

MAUREEN McKNIGHT, Circuit Court Judge

cc: Members of the Senate Judiciary Committee
Kingsley Click and Phil Lemman, State Court Administrator's Office
Addie Smith, Senate Judiciary Counsel