

TO: House Judiciary Committee
Hearing of 5-1-19

Re; SB318-A

Please accept this as my formal comments and **Testimony** on **Senate Bill #318 – Shared Parenting Bill**

I will address my personal background and effects of Child Custody, Parenting Time and Parenting at the end of this email.

Dear House Judiciary Committee Members,

As you are aware **SB 318** will Amend Oregon Revised Statutes as follows (additions to ORS):

From the Bill

Sec 1. 6) Presume, subject to rebuttal, that equal parenting time is in the best interests of the child. (*Amends ORS 107.101*)

Sec. 2 (B) It is presumed, unless rebutted by clear and convincing evidence by the parent challenging the presumption, that equal parenting time is in the best interests of the child (*Amends ORS 107.102*)

Sec. 4. (A) In determining parenting time rights under this section, there is a rebuttable presumption that equal parenting time is in the best interests of the child. In determining whether the presumption under this subparagraph has been rebutted, the court shall consider all relevant factors, including, but not limited to, the factors listed in ORS 107.137 (1).

The burden of rebutting the presumption is on the parent challenging the presumption. The

presumption must be rebutted by clear and convincing evidence that equal parenting time is

not in the best interests of the child and the other parent's lack or inability with respect to

the child will cause substantial risk of harm to the child's health or safety. (*Amends ORS 107.105*)

This Bill is very important not only for the health and future of children involved in divorced families but also for the ability to fairly involve both parents equally in the child's life. Too often 50/50 parenting time has been a voluntary or contractual agreement in parenting plans that only work as long as both parties want it to work. Once one parent, for whatever reason, decides to fail to cooperate with the agreed upon 50/50 arrangement, then families can and are too often, destroyed.

The presumption of 50/50 parenting time should be a statutory presumption, therefore I support this Bill. However, this Bill does not go far enough and creates or intensifies problems that already exist. I would request that you consider addressing the following issues with amendments to this bill or further legislation:

1. This Bill only addresses 50/50 parenting time. I suggest that it MUST go further to include 50/50 Custody as a presumption in child custody and parenting situations. While presumed 50/50 parenting time is an improvement on what we have now in law, it still creates a winners and loser environment, where one parent has control and power over the child, decisions regarding the child and the lack of shared 50/50 custody can interfere with the rights of the other parent and parenting time of the other parent.

2. This bill uses the “best interest of the child” barometer in making the 50/50 parenting time presumption. Current law already uses this same standard when making decisions of child custody and the system has failed terribly in using this standard. This standard is VERY subjective by social workers, custodial evaluators, parenting plan coordinators and Judges and also lends to these individuals personal biases, beliefs or flawed investigations of the family. It is a very flawed and subjective standard, one that again creates adversarial conditions and winners and losers. The child being the biggest loser, too often losing contact with a loving parent. As long as we allow so called “professionals” that have their own personal biases and prejudicial leanings to make the determination of “best interest of the child”, children and parents will be forever harmed.

3. In Section 4 (A)., *“The burden of rebutting the presumption is on the parent challenging the presumption. The presumption must be rebutted by clear and convincing evidence that equal parenting time is not in the best interests of the child and the other parent’s lack or inability with respect to the child will cause substantial risk of harm to the child’s health or safety.”* One of the biggest issues in divorce cases and child custody-parenting plan cases is conflict. Conflict between the parents often fueled by lawyers, social workers and Judges. Allegations of all kinds of hideous conduct by one parent about the other occur. These allegations are often untrue and some even pushed by or suggested by lawyers in an attempt to “win” their client’s case. These allegations often attack the other parent as; unfit, immoral, lies about their conduct, lies about their relationships with the children, coerce children into repeating these lies to officials, allegations of physical and mental abuse, bad parenting style, improper discipline and in extreme cases even allegations (often disproven) of sexual abuse. The parent will often involve allies of friends or relatives to provide their opinions to align with that parent’s abilities to parent and the other parent to be irresponsible as a parent. In too many cases one parent will brain wash the children and conduct Parental Alienation upon the other parent. Parental Alienation causes the children to mirror the feelings of the alienating parent and then hate the targeted parent of alienation. All of these examples are considered “evidence” to social workers and Judges that make these determinations. (see my story below).

This standard placed in this Bill of having one parent, (*“The burden of rebutting the presumption is on the parent challenging the presumption”*), providing evidence upon

the other continues the current problem we have of an adversarial relationship in custody and parenting plan cases. This proposed standard, the burden of rebuttal, could in fact cause the parent to provide even more false "evidence", so called "facts" and "statements" in an attempt to break the presumption of 50/50 parenting time. The conflict must end. The lying and providing of false so-called evidence must end. Utilizing social workers and Judges who are far from fallible in making the determination of which parent gets how much parenting time must stop. The 50/50 standard, one which I do support does not resolve the fact or change the situation that parents find themselves in now, where one parent often will attempt to break that 50/50 parenting time in to a different percentage more beneficial to them and not to the other parent. The "other parent" fighting to remain in their child's life. Something needs to be amended in this Bill to minimize the attempts at one parent breaking the 50/50 presumption. This bill will not resolve; legal conflicts between parents, stop lies or false evidence, negate corruption or biases from Judges/Social Workers/Attorneys and will not assure each parent obtain or maintain their 50/50 parenting time.

4. This bill does not address the related issues to ensure that 50/50 Parenting Time will remain intact or be successful for the child and the parents. Examples (presume that 50/50 parenting time is ordered): The custodial parent decides to move out of State or across State for a new job, effects the parenting time of the other parent. The custodial parent decides to withhold parenting time and violates the 50/50 sharing order. Either parent scheduling activities or events during the other parent's parenting time interfering with the 50/50 relationship. I can tell you from personal experience, Social Workers assigned to cases will state that 50/50 parenting time requires cooperation and communication between the parents. These professionals will never agree nor recommend to the Court 50/50 parenting time in "high conflict divorces" (of which there are many) involving children.

5. Lastly, this Bill or a future Bill must address the related issues surrounding 50/50 Parenting time. If we truly care about the success of children of divorce/custody cases, the following issues also need to be addressed. The real presumption from Statutes should not just be 50/50 Parenting Time but 50/50 Parenting Time AND 50/50 Custody as a presumption of law. This would mean that each parent is a complete equal parent of the child in every way. Each parent would have equal legal say in the child's upbringing, schooling, medical decisions, grooming, all areas in the rearing of a child. Costs and expenses in these areas, outside of each independent household's expenses would also be shared equally. There would be no child support in a truly 50/50 relationship. No child support would also alleviate much of the legal conflict in custodial and parenting time cases as too often a parent with a greater percentage of parenting time is rewarded financially though child support (one parent having the financial burden of paying court ordered; child support, medical/dental/optical insurance, life insurance, child support for college, all transportation costs). The ONLY winner should be the child ! A child having a loving and nurturing relationship with both parents. Then, both parents also win ! Currently, even if you are lucky enough to receive 50/50 parenting time, one parent is too often still considered the "non-custodial parent" and is financially burdened if not financially destroyed by all court ordered financial requirements.

About Myself and my situation:

My name is Craig Ziegenhagel and I am an Oregon native now living in Albany Oregon. I am now near 63 and retired. I have been dealing with divorce, child custody and parenting plan/time issues since 1994. I am a former business owner, Police Officer, Deputy Sheriff, Manager and hold a Degree in Criminal Justice. I was a member in a now disbanded Fathers of Divorced Children Group that met in Corvallis Oregon. I am the founder of a Facebook Group "Alienated Father's of Oregon" and I hope to begin in-person meetings in the Salem and Albany areas for Fathers dealing with parental alienation and related issues. I have been involved in and continue to be involved in other groups related to alienation, divorced Fathers and divorced Parents. I have always been a productive member of society. Honest, hard worker, good citizen, never arrested, don't drink, never have used drugs, good student, strong morals. I was raised with old fashion values of family, honesty and integrity. From about age 12-14 one of my biggest life goals was to have a family. That goal was destroyed through divorce, an uncooperative and vindictive former spouse, an unfair judicial system, corrupt and biased individuals within the system and a failure for those in authority to protect my court ordered parenting time.

In brief, upon divorce my former spouse and I agreed to 50/50 (contractual court ordered) parenting time though she had legal custody and also received all the financial benefits that went with that status. The children came to my home every day after school and spent time with me. We had a close and loving relationship. As their Mother entered the dating world and was re-defining her life, they were with me for even longer periods, including overnights that were more 80% of the time than just 50%. Things were going pretty well until two things occurred; when I became involved in a serious relationship and when child support enforcement did a bi-annual evaluation, found out that the children were with me most of the time and reversed the child support order, my former spouse then ordered to pay child support. Both of these infuriated her. I found that my parenting time was diminishing through interference and withholding of the children. The parenting time for me continued to diminish. I could not get a court to hold her in contempt or enforce the 50/50 order. If I wanted to see my children, I was forced to file for custody. This is a nasty process for many. I will not go into the details. However, through lies, false "evidence" and statements, a biased evaluator, a Judge that rubber stamped the evaluator's recommendation...I lost custody of my children. I still however was awarded 40% parenting time. The conflict with my former spouse continued. She was the custodial parent, in charge and had all the power. Through this process she was also alienating/brain washing my children against me. We were assigned a Parenting Plan Coordinator (LCSW) to attempt to moderate our differences and work out any conflicts. As the Judge did not want to deal with our issues, the Coordinator stated he was given full authority by the Judge to do what he pleased. Conflict continued. Parenting time refusal and interference continued. Eight years had passed since our divorce. The children then 13 and 15 were virtually completely alienated from me and I was told that they refused to see me anymore. The Parenting Plan Coordinator said that even though he believed I was being alienated, he would not make the children come to my home (even though the court order stated that

I would have them 40% of the time). That was sixteen (16) years ago. Attempts to stay in contact were ignored. Sixteen years of no contact with the children I loved and helped raise. During that time; they lost contact with their relatives from my family, rarely saw their Grandmother who died, all their pets died and I suffered from heart failure and spent 5 days in ICU. Our relationship has been completely destroyed. I think about them every day. I hate the feeling knowing that I will die with no relationship with my own children. A life's dream gone. I had 50/50 Parenting time, it meant nothing. Later I had 40% parenting time, no one would enforce it. Changing the presumption as this Bill would to 50/50 would not have changed a thing ! This Bill would not have changed the conflict to break the 50/50 presumption, it very possibly would have intensified the conflict. Your Bill must stop this, too many are suffering.

I must add that I have dealt with numerous Social Workers. I have counseled with many other divorced Father's that have dealt with the same social workers and have had the same results. Loss of parenting time, loss of custody, loss of a loving relationship with their children. Too many of these social workers are biased against Fathers and promote the Mother. Some have failed to disclose their own biases, their own divorces, even while handling custodial evaluation cases. Some even have unprofessional relationships with officers of the court. They are all in a small circle of "experts", too often like minded. Too often, the Father loses. That means the children also lose. From Census Data: Mother's receive custody 90% of the time for children under 5 years of age. Overall, Mother's get custody 75% of the time, Father's 10% and the balance in various forms of agreed joint custody. With statistics like that, how can any presumption of 50/50 parenting time ever actually work ?

Now at 63 I have given up. I learned years ago that I had to "move forward". I however stay involved, advocating, hoping to help other Father's and Mother's that are dealing with divorce, parenting issues, parental alienation and related topics.

Thank you for your time.

Respectfully,

Craig Ziegenhagel
Albany, Oregon