Written Testimony of Erin K. Morris, Oregon Family Law Attorney and Partner at Morris, Stannard & Batalden Family Law PC:

Good afternoon Madam Chair Power and members of the subcommittee. My name is Erin Morris and am here today on behalf of Morris, Stannard & Batalden Family Law PC to testify in opposition to HB 2959 and HB 2948. I have been a licensed practicing attorney in the State of Oregon since 2012 and in the State of Washington since 2018. I have dedicated the entirety of my legal career to serving clients and families across the state of Oregon in all areas of domestic relations law, with substantial litigation experience in the areas of custody and parenting time matters in the context of high-conflict divorce and post-judgment modification cases. Our law firm is focused in the area of family law and we appreciate the subcommittees' time, attention, and commitment to improving this vital area of law in our state. Our attorneys and staff members provided ample commentary on each of these proposed bills and I will do my best to keep my summaries brief for the subcommittee.

First, I want to discuss **HB 2959**.

As drafted, this bill would not allow a parenting plan to be entered into between parent-litigants without the consent of a minor child subject to the plan, if that child is age 14 or older. In doing so, this bill would put children directly in the middle of custody and parenting time litigation and parental conflict, turning children into active participants in their parent's family law disputes. In the counties where I practice, judges and officers of the court view compelled child witness testimony as an extraordinary mechanism not undertaken or authorized lightly. This is of course due to the roundly uncontroverted conclusion of the bench, of family law practitioners and of child specialists and pediatric clinicians that compelling children to testify against a parent in a highly formalized courtroom environment poses a clear and substantial risk of emotional and psychological trauma to the child. The process as outlined in this bill would necessitate that children, already potentially submerged in the everyday tensions of high-conflict litigants in a contested custody or parenting time action, be further exposed to conflict, stress, anxiety and the imposition of untenable loyalty binds between a child's primary emotional attachment figures – this is not a risk simply in the context of testimony – but is a pervasive concern in the process outlined in this bill in which children will be required to review and potentially approve or disprove various specific provisions of the agreements and rules surrounding their parent's detailed parenting plan for them. The risks to the relationship between a child of this age and their parent if the child is compelled or enlisted to testify against or for a parent at trial or meaningfully decipher and approve detailed parenting plans governing their own relationship with and between their parents, is abundant and deeply problematic for the healthy growth and development of children in these family systems.

The bill also creates unhealthy and roundly discouraged behaviors between parents and their children while submerged in potential divorce or other family conflict. For instance, if the child's view on the parenting plan is a mandatory component of the case, parents could be inclined or even incentivized to engage their children in adult conversations regarding their conflict with their current or former spouse – potentially as an attempt to manipulate and garner favor with

the child for the sole purposes of prevailing in their litigation position, further enmeshing the children in parental, adult conflict. This bill could also create unintended conflicts between siblings, as older siblings get a say in their younger siblings' parenting plans in the event that the parties had multiple children of varying ages.

Additionally, there are some practical ramifications to discuss, such as the court's requirement for mandatory mediation. As you may know, mediation is mandatory for all custody and parenting time cases in Oregon. Should children be "required parties" to these cases, would they also be required to attend mediation? Would children need to be represented at mediation? Can children who's prefrontal cortex, the area of the brain responsible for impulse control and integrative functioning, be tasked with navigating which parent should be responsible for pick ups and drops offs, which parent should have what holiday and how the parties should navigate attendance at school events, sports practices, or medical and educational decision-making. Parenting plans involve a complex and diverse set of agreements, requirements and directives that touch on so much more than the parenting time schedule itself. These provisions in parenting plans often themselves restrict parents from discussing litigation with their children, including children ages 14 and up. This bill simply does not account for the very real practical obstacles to its implementation and the serious potential ramifications of open and direct involvement in adult conflict on the healthy and important emotional and psychological development of a child this age.

HB 2948 would dramatically change custody and parenting time cases in Oregon, allowing Judge's to order "joint custody" against the wishes of the parties. There are many cases where there absolutely needs to be a tie-breaker parent in making major decisions for the child - due to domestic violence or the high level of ongoing conflict between the parents, or because of the timeliness required of these major decisions for children. In cases where joint custody is ordered and the parties are unable to effectively work together, this will likely lead to additional litigation which will prolong or stymie the ability of parents to make necessary and routine care decisions for their children.

Also, as drafted, the bill states that the change in law constitutes a substantial change in circumstances for purposes of future modifications of custody orders. Such a provision is likely to lead to an extraordinary influx of future modification proceedings and litigation which will plunge countless families back into conflict needlessly. More often than not, when parents are unable to agree to joint custody (as is the current state of the joint custodial statutory requirement), this disagreement foreshadows deeper discord in the relationship that fundamentally precludes the parties from healthily navigating joint decision-making in a way that shields their children from adult conflict. We know, as a foundational principal of neurological and emotional development in children, that a child's exposure to ongoing conflict between their primary attachment figures, their parents or parental figures, leads to statistically significant reductions in long-term resilience and success for these children in adulthood. Setting up a system that is almost always going to increase a child's exposure to familial conflict, as this bill would inevitably do, works at odds with the policies and practices implemented to protect and reduce this exposure to conflict in contested matters.

If the Chair or Members of the committee have any questions for me that may further inform your work on these bills, I will be happy to answer those. Thank you for your time and consideration.