

**Testimony before the House Subcommittee on Civil Law  
In Opposition to HB 2959  
On behalf of the OSB Family Law Section**

March 3, 2021

Dear Chair Power, Vice-Chair Wallan, and Members of the Committee:

My name is Ryan Carty. I am an attorney in private practice limited to family law. I am the legislative liaison for the Family Law Section of the Oregon State Bar for the current legislative session and I serve as Chair of the Family Law Section's Legislative Subcommittee. I appear today in that capacity. The Family Law Section was originally formed in 1978, and today is made up of nearly 900 attorneys and judges who handle family law cases throughout Oregon. Our members hail from 30 different Oregon counties, representing a diverse population of clients each with their own unique problems and concerns. Our Executive Committee is comprised of 12 members from 8 different counties, spanning from the lively streets of Pendleton, through the fertile fields of the Willamette Valley, and to the heart of the Rogue River in Grants Pass.

We come from very different backgrounds and represent a wide variety of viewpoints on family law issues, but are in agreement that House Bill 2959 is a step in the wrong direction.

**What the Bill Does**

The proposed legislation would require that no parenting plan impacting a child 14 years of age or older be ordered absent the minor child's consent. Doing so would effectively provide a child 14 years of age or older with veto power over their parents' agreements or the court's orders.

The bill would also allow the court to take testimony from a child and creates rules for doing so. This provision of the bill is duplicative of authority already codified in ORS 107.425(7), which provides:

*Prior to the entry of an order, the court on its own motion or on the motion of a party may take testimony from or confer with the child or children of the marriage and may exclude from the conference the parents and other persons if the court finds that such action would be likely to be in the best interests of the child or children. However, the court shall permit an attorney for each party to attend the conference and question the child, and the conference shall be reported.*

To be sure, it is important that courts have the discretionary authority to hear from children in appropriate circumstances. But given that the authority already exists under state law, there is no need to restate it in new legislation.

### **Minor Child Involvement in Parenting Time as a Policy Matter**

It is generally accepted that children should be shielded from their parents' custody and parenting time litigation. This bill would put children 14 years of age and older in the proverbial limelight. Doing so would encourage parents in high conflict cases to put their children in untenable situations. If a parent doesn't like the parenting plan, all that parent has to do is convince the child to veto it. It's no stretch of the imagination to envision a scenario where a higher allowance, better video games, or additional autonomy are offered as bargaining chips to an adolescent who has been inappropriately drawn into their parents' family law matter.

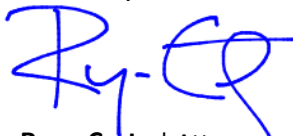
Courts have long held discretion to hear either directly from minor children (regardless of age) or hear from those speaking on their behalf (e.g., counselors, physicians, attorneys, etc.). In cases where it is appropriate to take into consideration what a minor child thinks, the court is already well equipped to do so.

### **Conclusion**

The Family Law Section of the Oregon State Bar represents both mothers and fathers and is neither pro-mom nor pro-dad. The Section's focus is on promoting the best interests of the child, achieving consistency and fairness in difficult cases, and in seeing family animosity decreased in the divorce context. We look forward to working with the committee to find ways to advance these goals.

On behalf of the Family Law Section of the Oregon State Bar, I thank the Committee for its consideration and urge the Committee to not move the bill forward.

Sincerely,



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