

Testimony on HB 2959 (2021)

Strongly oppose.

There are already mechanisms in place for children's voices to be heard in the court process via testimony, in chambers communication with a judge, custody studies, and in some instances in mediation when parents approve. Exposing children to the legal process is delicate balance that should be explored by the judiciary who work with parents and hear testimony from children on a daily basis rather than be mandated by statute.

Requiring a child age 14 or over to approve a parenting plan in a court puts an extraordinary amount of pressure and an emotional cost on a child as it requires them to engage in a process that may be beyond their maturity. Children of that age are grappling with their self-identity, self-worth and place in the world and should not be forced to choose between their parents or be pitted against one parent by the other. As young teenagers and emerging adults, their focus should be on education and social development. The burden of making decisions for children is a weighty one and remain on the shoulders of their parents.

Compelling or requesting a child's involvement in the ordering and implementation of their parenting plan will create more ongoing familial conflict in many circumstances. The parent whose parenting plan is not chosen may blame the child or pressure the child to change their mind, and the family may end up revisiting the plan in court over and over rather than adjusting to a plan.

In the instance of domestic violence or a power and control dynamic, a child may be coerced into choosing one parent over the other and be removed from a safe parent. Not all domestic violence is physical or provable. Children may be exposed to significant mental and emotional trauma if they are compelled to consent to a parenting plan or engage in the process at all.

Even in situations without problematic family dynamics, there are significant logistical issues that are not addressed by this legislation: What if there are multiple children under the age of 14? Will children become estranged from their siblings because children disagree about which parent they should spend the school days with?

The most problematic language in the proposed legislation states:

(6) If the child is 14 years of age or older, a parenting plan under this section may not be entered into or ordered without the consent of the child.

•If a parenting plan requires a child's consent before it can be entered, how long does the court wait to enter a parenting plan? Until a child is ready? The courts have time standards that should not be controlled by children.

•Children cannot legally enter into contracts by virtue of their age. This policy is based on the developmental expectations. But what happens in the case where a child is developmentally or intellectually delayed so as not be able to understand the plan?

Kathy Outland, LCSW; Kate Hall, JD; Michelle Vlach-Ing, JD; Lisa Mayfield, JD, Jennifer Brown, JD