

Testimony House Bill #3095
Equal Shared Parenting Time

To: House Judiciary Committee
From: Craig Ziegenhagel, Resident/Advocate for Fathers
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Honorable Chairman Jason Kropf and Committee Members,

Please accept this as my formal comments and testimony in support of **passage** of House Bill #3095. I will address my personal background and effects of Child Custody, Parenting Time and Parenting at the end of this emailed testimony.

In 2019 I reluctantly supported SB318, a bill that was passed into law that modified Oregon law to permit the ordering of shared parenting time. I say “reluctantly” because it was of my heartfelt opinion that the Bill did NOT go far enough in creating equality between fathers and mothers when it came to parenting time. I went into detailed opinion of what I believe needs to be done to put this topic of parental equality to rest. Well, that Bill did pass. As an advocate for equality in parental rights and specifically in my goals to help fathers on these and related issues; I know of no one that SB318 helped. From my extensive discussions with others here in Oregon; Judges are not ordering shared parenting time-SPT (often with no justification why), attorneys either do not know about it or will not attempt SPT because they believe the judge will not order it and I have yet to find any parent, mother or father that received equal or near equal SPT in any order since that Bill’s inception.

Before I go any further, I want to make one thing very clear. I fully understand that both mothers and fathers have fallen victim to the unfairness and inequality of rulings and treatment in family courts not just in Oregon but across the United States. I am a man, a father of three, an alienated dad, a dad that has not seen nor heard from his children in over twenty-one years. This has caused me to focus on advocacy for men and fathers. But again, I fully understand the concerns that mothers also have in regard to inequality in court rulings. Any comments by me in this testimony focused on the father, are only because of my advocacy in that area.

Here we are again with a new bill, HB 3095, again attempting to create equality in parenting time orders in Oregon courts. I need to commend those citizens that brought this bill to the State Capitol and to those Representatives that introduced this bill for consideration. They should be commended and thanked for their actions despite the opinions that I may express here.

In my opinion, even though I recommend passage of this bill, it does not go far enough, creates little change in law and my prediction...it will help very few people in family court in the attainment of equal parenting time. We must also be careful here to not confuse parenting time

with custody, 50/50 custody or 50/50 shared parenting. This bill is specific to court ordered parenting TIME.

I have deep concerns with language as follows:

1. The use of the terms “rebuttable presumption”, “subject to rebuttal”.

I suggest this bill be amended in such a way that false allegations and untruths cannot be used to rebut the presumption of SPT. As currently written, it leaves a loophole far to large that would allow false allegations of any and all types, in an attempt to “break” the presumption of SPT. “Subject to rebuttal” is not defined and is open ended to what type of rebuttal can be used to not order SPT. 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 brainwash 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. The goal should be to order equal shared parenting time as a standard and in the majority of cases not in the minority of cases. We must not allow false evidence and a large loophole, “rebuttable”, to not achieve this goal.

2. Page 2, line 22: “the court may deny the request (for SPT) only if the court determines, by written findings...” It must be mandatory that if the court does not order SPT, that the court, in writing and in great detail list those points and facts used to not order SPT.

3. Page 2, lines 20 & 25: “that equal or approximately equal parenting time is in the best interest of the child” and; “...the court shall develop a parenting time plan that maximizes the practicable parenting time with each parent.” “Approximately” is not equal, it is not 50/50, it is not shared. If 50/50 parenting time is desired by one or both parents and there is no real evidence of unfitness...50/50 SPT should be ordered. In the later, “maximizes practicable parenting time” (when the court does rebut the presumption) , if there are factors of concern, there are no benchmarks in law to weigh or judge these concerns verses an amount of parenting time to be ordered. There is far too much latitude given to the Judge in these situations. A parent is either fit to be a parent or not.

4. This bill is littered with the use of the term “best interest of the child”. Of interest is that the term is not even defined in Oregon law. Other than the below vague parameters (*EX.1-end of this doc.), the use of this term gives extreme power to a judge or social worker in determining what is in “the best interest of the child”. This is subjective, opinionated, affected by bias and conformation bias and quite frankly has failed families and failed the very children that the use of the “best interest” standard was set up to protect.

I urge the Legislature to either have specific definitions for this term or replace the use of the term with specific policy on deciding fitness and unfitness for a parent to parent. The abuse while using this term has destroyed families, children and parental relationships with their children. It is odd to say the least that one day a parent can be a fit and loving parent and the next day, judged and a decision made that they are no longer adequate to be involved in the child’s life or only involved a percentage of time, becoming an, every other weekend parent. We are allowing families to be destroyed and it is also taring down society. Our system must take a better approach in making these decisions, after divorce and in the parenting time a parent receives. Equal parenting time must be the norm, it is not. Equal parenting time should be ordered in the vast majority of cases, it is not. Our system is “stuck” in its ways, the standards it has used for decades and far too often creates a “winner” parent and a “loser” parent. Who really loses? The children themselves!

5. In dealing with evidentiary factors in conjunction with the “rebuttal” of the presumption of shared parenting time; Currently, virtually anything can be used stated or presented to rebut the presumption. This includes hearsay evidence, false evidence, illegally obtained evidence, false statements, innuendo, feelings, emotion, bias and studies often conducted by unqualified and biased social workers. I use the term “evidence” here loosely, I should have used “so-called evidence”. Evidence in family court is pretty much anything goes. We MUST change the laws and rules of evidence in family court to mirror that of criminal court. Beyond a reasonable doubt! Our courts provide more evidentiary rights to a person charged with theft or vandalism (where the result may be a fine and no jail time) than they do in a custodial case or a parenting time-parenting plan hearing where the result can cause a parent to lose a loving relationship with their child. Decisions made using false testimony and faulty “evidence” that can destroy the family and destroy the viability of a productive life and future for the child. It is critical that ONLY real evidence be used in family court if we are going to use it to rebut equal parenting time.

If we do not change the standards of evidence in family court and if we continue to use this “rebuttable” procedure, I fear that the conflict between parties will continue if not even intensify. For one parent to obtain a greater percentage of parenting time they must convince the court that the other parent is not fit to receive an equal amount of parenting time. This is when all the conflict begins. We have a system creating winners and losers. This is when the false allegations begin, false restraining orders are filed for, false and hearsay evidence is presented, children coerced into siding with one parent over the other and when parental alienation is used as a weapon. We must take away these tactics and only rely on truth and high standards of

evidence in making these decisions. Equal parenting time should be ordered in most cases not in the minimal of cases. Most parents are not monsters nor abusers. Just because two parents no longer get along or can live together is no reason that any parent should suffer a lost relationship with their child.

I urge you to amend this bill and “clean it up” so that finally a workable 50/50 shared parenting time law in Oregon is passed. A law that will save child-parent relationships.

Beyond this Bill, I hope that a brave Legislator will step up to modernize and conduct a complete review of all family court laws and procedures. I would title it, “The Family Court Reform Act”. I am willing to sit down and discuss with any legislator from either party these issues.

What I believe needs to be addressed:

- 50/50 Shared Custody as the norm.
- Equal parenting time.
- Evidentiary changes in family court.
- Replace the “best interests” standard with specific law, standards and benchmarks.
- Enforce violation of parenting time orders, custodial orders, court orders to the same extent and standards for non-payment of child support. Contempt, license suspension, passport seizure, fines and potential jail term.
- Update Oregon’s custodial interference laws to protect both parents (custodial and non-custodial) from custodial interference.
- A recognition of Parental Alienation as a form of psychological abuse upon a child and consideration in making this form of abuse a criminal offense.
- Strict penalties for violation of family court orders.
- Enforcement of perjury statutes in family court.
- Severe penalties and actual enforcement for those parents that file false restraining orders and false police reports (all in an attempt to use these false actions in court for leverage).
- Complete overhaul of the child support system.

Thank you for this opportunity to provide the above testimony. Below I will relate, in brief my own situation.

Again...thank you,

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Father’s Anonymous Organization, Councilor

Actively Involved in Parental and Father issues for 35 years.

On a personal note: I am an Oregon native, a former police officer, deputy sheriff, EMT, business owner. I have been dealing with parental and father's rights issues since the 1980's I have seen very little improvement in the system and have continued to see the breakdown of our families and specifically inequality towards the parental rights of fathers in Oregon and beyond.

In my own life, my first son died at one year of age. We had two more children and divorced when they were about 4 and 6. To be brief, I had parenting time ordered and it interfered with forcing my hand to file for custody. I of course like so many fathers, lost my case. Winners and losers! My parenting time continued to be interfered with and both social workers and judges would do little to nothing about it. We have a huge problem with family court where judges will not hold people accountable nor enforce their own orders. Parental alienation set in. A process where one parent turns the children away from the other. It was fully rooted and at the ages of 13 and 15 my children walked away, refusing to attend my court ordered parenting time. I was told that no one would force a teen to see their non-custodial parent. The judge would not enforce his own orders. That was over 21 years ago and even though my now adult (35 and 37 year old) children live within 20 and 50 miles from me, I have not seen them in all this time. There are now two grandchildren involved that will never even know I exist. My entire family has lost these relationships. Basically, half of my family tree has burned, rotted and fallen to the ground...to never grow back.

The family court system is broken.

This Bill is far from perfect and it will not solve the parenting time issue nor resolve conflict.

Families are being destroyed, relationships are being destroyed, parents...children and society suffer as the result.

If any Legislator would like a one-on-one meeting with me I am at your disposal. I can go into much more detail about my own history and what I have learned in over thirty-five years in dealing with these issues. Thank you.

*EX1:

Oregon has no true definition of "Best Interest of the Child" and when used in statute pertains to custodial issues and does not even reference the standard of use in parenting time issues. The current bill is using a term not associated with nor defined in regard to parenting time law.

See following ORS:

ORS 107.137

Factors considered in determining custody of child

Text

[Annotations](#)

- (1) Except as provided in subsection (6) of this section, in determining custody of a minor child under [ORS 107.105 \(Provisions of judgment\)](#) or [107.135 \(Vacation or modification of judgment\)](#), the court shall give primary consideration to the best interests and welfare of the child. In determining the best interests and welfare of the child, the court shall consider the following relevant factors:

 - (a) The emotional ties between the child and other family members;
 - (b) The interest of the parties in and attitude toward the child;
 - (c) The desirability of continuing an existing relationship;
 - (d) The abuse of one parent by the other;
 - (e) The preference for the primary caregiver of the child, if the caregiver is deemed fit by the court; **and**
 - (f) The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child. However, the court may not consider such willingness and ability if one parent shows that the other parent has sexually assaulted or engaged in a pattern of behavior of abuse against the parent or a child and that a continuing relationship with the other parent will endanger the health or safety of either parent or the child.

- (2) The best interests and welfare of the child in a custody matter shall not be determined by isolating any one of the relevant factors referred to in subsection (1) of this section, or any other relevant factor, and relying on it to the exclusion of other factors. However, if a parent has committed abuse as defined in [ORS 107.705 \(Definitions for ORS 107.700 to 107.735\)](#), other than as described in subsection (6) of this section, there is a rebuttable presumption that it is not in the best interests and welfare of the child to award sole or joint custody of the child to the parent who committed the abuse.

Continued sections...