

Submitter: Michael Fearl
On Behalf Of:
Committee: House Committee On Judiciary
Measure, Appointment or Topic: HB3095

I am an active member of the Oregon State Bar. I have practiced family law in Oregon since 1996. Representing parents in custody or parenting time cases is a significant part of my practice in the trial courts as well as in the Oregon Court of Appeals, but also in out-of-court settings like mediation and Collaborative Divorce. I am also frequently appointed by Circuit Court Judges under ORS 107.425 to represent children of all ages whose parents are involved in parenting time disputes. (Representing children is usually on a pro bono basis but sometimes I am paid a reduced fee by one or both parents.)

Like all of my colleagues in the family law bar, I represent custodial and noncustodial parents, so I do not approach this issue as an advocate for any particular category of parent. Sometimes my client is the primary caretaker parent and sometimes my client is not. This bill would create a cookie-cutter approach to parenting plan design and I think that is a bad idea that prioritizes the "territorial" or "proprietary" ambitions of an erstwhile non-primary parent over the needs of the child. The term "maximum practicable parenting time" is not defined in the bill, and the concept itself is at odds with the "best interest" standard for custody and parenting time that are required by current law. I struggle to imagine any definition of "maximum practicable parenting time" that would make this bill an improvement from the status quo. If enacted, this bill would weaken the legislature's existing command to center the best interest and welfare of children above parental goals for families where the parents separate or divorce.