



CIRCUIT COURT OF THE STATE OF OREGON

FOR THE 2nd JUDICIAL DISTRICT
LANE COUNTY COURTHOUSE
125 E. 8TH AVENUE
EUGENE, OREGON 97401-2926

KARRIE K. McINTYRE
CIRCUIT COURT JUDGE
(541) 682-4218

February 24, 2025

Oregon State Legislature
House Committee on Judiciary
Sent Electronically for Testimony February 25, 2025

RE: Presumption of Equal Parenting Time HB 3095

To Whom it May Concern,

I am a Circuit Court Judge in Lane County and currently the Chief Civil Judge there. I am the current chair of the Statewide Family Law Advisory Committee (SFLAC). The SFLAC is a statutorily developed multi-disciplinary committee that provides advice to the Chief Justice and State Court Administrator to better assist families navigating their matters in Oregon Courts (ORS 3.436). I chair the National Counsel for Juvenile and Family Court Judges Family Violence and Domestic Relations Advisory Committee. I do not write on behalf of the SFLAC, my colleagues on the Lane County court, or the NCJFCJ/FVDRAC but to provide the information by way of introduction. I served on the workgroup SB 318 regarding Presumption for Equal Parenting back in 2019.

Legislators have been tackling the issue of disgruntled parents and constituents who are unsatisfied with custody and parenting time outcomes in the court for as long as the courts have been tasked with making the determinations. When parents do not raise their children in the same household and are unable to reach agreements about the fundamental needs of a child, then the court must make decisions. It is critical to understand that many parents **are** able to address the needs of their children *without court intervention*, however, it is when they are not able to do that, they become involved in adversarial court litigation. If parents resort to adversarial litigation, then, often, they are unable to effectively collaborate among themselves regarding what is in the child's best interest. (This is also why it remains critical to support court connected mediation.)

Understanding that premise is key when deciding whether a presumption of equal parenting time is appropriate. The frustration for most parents involved in courts is that they don't agree with the other parent (on most things) and when a court orders less than 50/50 parenting time a parent thinks this is "unfair". If parents can't agree on the fundamentals of what a child needs, how can they collaborate and communicate successfully on a forced 50/50 parenting schedule during a school year compounded with extracurriculars (to say nothing of addressing any special needs or circumstances of the children or their parents)? **For decades, the Oregon Legislature has been directing the courts to make parenting time decisions based on what is in the best interest of the children, which does not necessarily align with what a parent thinks are "fair".**

To copy some relevant testimony provided Judge Maureen McKnight during the 2019 legislative process regarding then proposed SB318 she wrote on behalf the Multnomah County Family Law Bench:

"Maximum contact with each parent is laudable goal for a parenting plan, 50-50 parenting plan between two households is simply possible – or appropriate – for many, many children. Individual plans are needed that take into account numerous factors: a

child's age and school schedule, if any, developmental stage or any special needs, the existence of and schedules for other siblings in the home, how close parents live to each other, whether parents are able to put aside their personal conflict to effectively communicate effectively with the other parent about the needs of the child, the existence of risk factors such as domestic violence, cognitive impairment, mental health issues, ongoing substance abuse, other barriers to safe and healthy coparenting. All of my colleagues and I have seen proposals for 50-50 parenting time that include steps such as exchanging the child at 3am on one parents work place parking lot as that was the way to make the plan "fair" to that parent. We believe instead a that a child-focused parenting plan should guide both policy and individual parenting time rulings."

The result of the passage of SB 318 is that it required judges to explain, in writing, why they were deviating from a 50-50 parenting plan when it was requested by one party. This legislation caused judges to openly explain and fairly evaluate the circumstances of the child within the statutory construct *that you have already provided*, and we continue to make the decision based on what the CHILD needs and what is THEIR best interests.

For an interesting breakdown of states who have actually adopted 50/50 parenting time presumption one could review the Wikipedia page on it: [List of shared parenting legislation - Wikipedia](#) (On first blush it appears only 5 (Arizona, Kentucky, Missouri, Virginia, and Wisconsin) states in the nation have this presumption, while the overwhelming majority do not. I did not brief or check veracity any of the information on Wikipedia but use the information to support the notion that throughout the nation the states routinely consider this issue and the bills generally fail in favor of evaluating children's needs on a case by case basis.)

Once parents are not able to agree and they pursue the adversarial process of court proceedings, it can create circumstances where the parents no longer have capacity to effectively navigate co-parenting and setting the stage for a presumption, that must be legally overcome, will be a very complicated legal analysis, particularly for self-represented litigants.

The State of Oregon has a growing population of parents who are self-represented for their domestic relations matters. Currently, 72% of all domestic relations matters have at least one party who is self-represented at the time of filing their initial Petitions and that number grows to 86% being self-represented by the time their case is completed. In 2024, approximately 23,000 domestic relations matters were filed (does not include protective order matters). While not all of those cases involve children, most do. In each domestic relation case filed that involve children, there are at least two parents, and sometimes grandparents or other psychological parents to a child. Therefore each year, thousands of parents and children are seeking resolution to their family dynamics through the court system. Let's keep the focus where it should be, and that is in the best interests of the child.

VERY TRULY YOURS,
Karrie K. McIntyre
Circuit Court Judge, Chief Civil Judge
Chair Statewide Family Law Advisory Committee – Oregon