

Submitter: Kimberly Quach
On Behalf Of:
Committee: House Committee On Judiciary
Measure, Appointment or Topic: HB3095
Greetings:

My name is Kimberly Quach and I am a family trial and appellate lawyer in Oregon and Washington. I have practiced 34 years. I have been Chair of the Oregon State Bar Family Law Section, and I am the immediate past President of the Oregon Chapter of the American Academy of Matrimonial Lawyers. I have also been extensively involved with the ABA Family Law Section.

I write this testimony in opposition to HB 3095. As a general principle, I am opposed to any kind of presumption to the terms of parenting plans as the Court needs unfettered discretion to fashion a detailed or general parenting plan. But, in particular, a presumptive 50/50 plan is inappropriate for the reasons I will describe.

First, I am finding that Courts are more and more receptive to Parenting Plans that award the non-primary parent 5 or 6 overnights every 14 days. This has been the trend for about the last 5 years. It has been decades since the Court ordered an alternating weekend and mid-week dinner in most cases during the school year with equal division of the summer. So there really is no need for a course correction.

Second, when 50/50 plans are court-imposed against the wishes of the children's primary provider, I have found that the litigation is ongoing, expensive and difficult for the children. Expert testimony in my case has established that this is a well-known clinical outcome for these cases. Forced 50/50 plans are an invitation for the parent who otherwise might have been the non-primary parent to argue with and complain to the other parent. I have 2 cases now with forced 50/50 plans where the parties are spending thousands of dollars on a Parent Coordinator who fields near-daily arguments between the parents about the minutiae that protracts the conflict from the divorce. Thus, far from making cases easier, forced 50/50 plans will create more motion practice and more work for lawyers than the existing structure.

To be absolutely clear, I often advise my clients to consider using a 50/50 plan, and encourage them to engage in co-parenting therapy. If the parents can achieve a 50/50 plan by agreement, I support that for long-term outcomes. But this is very different from having to justify why a 50/50 plan is inappropriate in every case. This will require expensive expert testimony and irreversibly impact the quality of the co-parenting relationship going forward.

I recognize there is facial appeal to this type of presumption to those who don't

manage a lot of high conflict family law cases. As I mentioned, however, most family lawyers are very supportive of agreed parenting plans that equally divide parenting time and we encourage and facilitate that. But I have many, many other cases in which 50/50 has been forced either by the stressors to avoid litigation, or by Court order, and they are among the most expensive, contentious and divisive cases in my portfolio.

For these and many reasons, I oppose this legislation.

Very Truly Yours,
Kimberly A. Quach
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