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**Testimony in Opposition to House Bill HB 3095
Before the House Judiciary Committee**

February 25th, 2025

Chair Kropf, Vice-Chairs Chotzen and Wallan, and Members of the Committee:

On behalf of the Oregon Law Center (OLC), I submit this testimony regarding House Bill 3095. Thank you for the opportunity to submit comments.

OLC is a statewide non-profit law firm whose mission is to provide access to justice for the low-income communities of Oregon by providing a full range of the highest quality civil legal services. Because we are not able to help all who qualify for our services, we prioritize the provision of assistance to the neediest Oregonians – the lowest of income, the most vulnerable. One of the most frequent requests for help from our offices is in the area of family law. Often, our clients are struggling to escape domestic or sexual violence. Rarely are the issues facing our clients more compelling than when parents seek our assistance in establishing safety and stability for themselves and their children in the aftermath of violence committed by a family member. In all cases, we look for outcomes that, tailored to the needs and circumstances of the individuals involved, will best enable the children to thrive. It is through this lens that my testimony is provided regarding the bill before the committee this afternoon.

Our concern is that HB 3095 would negatively impact families by presuming a one-size fits all standard for making determinations of parenting time. The bill proposes codification of a legal presumption that equal (50/50) parenting time is in the best interests of children, and requires the rebuttal of that presumption before a Court could order otherwise. This standard would exacerbate parent conflict and would have significant negative impact on children and families.

I would note that it is absolutely the case that children benefit with ample and regular access to loving parents. Oregon statutes establish several principles regarding the importance of both parents in the establishment of parenting time orders, against the foundation of a consideration of the best interests of the children and the safety of the parents:

Policy Regarding Parenting:¹

- Assure frequent/continuing contact with parents who have shown the ability to act in the child's best interest;
- Encourage fit parents to share in rights/responsibilities of raising children;
- Terms of parenting plan for benefit of child, not parents;
- Encourage parents to develop own parenting plans - wide discretion;
- Best interests of the child and safety of the parents must be considered.

¹ ORS 107.101, 107.102, 107.106, 107.149

When parents cannot agree about the terms of custody and parenting time, and need a judge's decision on the matter, Oregon's law provides a nationally recognized standard for determining the appropriate order. The judge must consider the facts and circumstances of the individual family, and make a determination about what would be in the child's best interests. It is best policy to ensure that this is a child-centered assessment, rather than a parent-focused assessment.

In 2019, the Legislature enacted SB 318, which further provided that if a parent requests that the court order equal parenting time, the court may deny the request if the court determines, by written findings, that equal parenting time is not in the best interests of the child or endangers the safety of the parties.

Best Interests of the Child Standard:²

Consider all of these factors:

- Emotional ties between child and family members;
- Interest of parties in child and attitude towards child;
- Desirability of continuing existing relationships;
- Abuse of one parent by the other;
- Preference for primary caregiver of the child, if the caregiver is fit;
- Willingness and ability of parent to facilitate relationship between child and other parent;
 - May not consider this factor in cases of sexual assault or pattern of abuse, if continuing relationship would endanger health/safety
 - Rebuttable presumption that it is not in the best interests of the child to be in sole or joint custody of parent who has committed domestic violence;
 - Marital status, income, social environment, conduct, or lifestyle not considered unless causing or may cause damage to child;
 - No preference to mother over father or father over mother.

Our current statutes recognize that all families are different, and have myriad factors that are relevant to the best interests of children. For example, factors such as the parents' employment schedules, the children's ages and developmental stages, where the parents live, physical or mental health issues, development stages, school and sports schedules, geographic separation, and other factors can more often than not mean that 50/50 splitting of time is not the exact match for the child's best interests. Low-income families in particular may have financial burdens, transportation issues, job schedules, and other challenges that would make a 50/50 parenting time schedule extremely difficult for children.

The requirement that a parent must submit evidence to rebut a presumption that equal parenting time is best for children, before any deviation from the presumed 50/50 split could be allowed, would increase rancor and litigation costs in family law proceedings. The bill would make custody and parenting time

² ORS 107.137



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litigation more complex, and harder for low-income parents to navigate. Victims of domestic violence would be particularly negatively impacted by the proposed standard, having to submit evidence to overcome a presumption, and face possible retaliation from an abuser, before getting to question of the child's best interests. In all cases, the bill's proposed standard would decrease the court's ability to get to the issue of the best interests of the child.

All families are different, and have different challenges, strengths, and needs. The consequences of having an inappropriate order regarding parenting time are severe. Oregon's current law strikes a balance that facilitates a court's ability to consider relevant factors designed to encourage the crafting of an order that works best for children. This is the appropriate focus for our family law statutes. For these reasons, we oppose House Bill 3095.

Thank you for the opportunity to testify.