

February 25, 2025

House Committee on Judiciary  
Oregon State Legislature  
900 Court Street NE  
Salem, OR 97301

*RE: Opposition to HB 3095 – Rebuttable Presumption of Equal Parenting Time*

Dear Chair Kropf and Members of the House Committee on Judiciary,

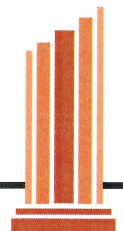
I am a private attorney in Albany, Oregon. I practice exclusively in the areas of family law. I am the Chair of the Oregon State Bar Family Law Executive Committee and the president of the Linn-Benton Bar Association. I serve on Linn County's Mediation and Arbitration Commission and am a member of the National Academy of Family Law Attorneys, Oregon Trial Lawyers Association, American Bar Association, Linn-Benton Bar Association, Marion County Bar. I am the Region 6 Ex-Officio Delegate for the Oregon State Bar House of Delegates. I write to express my personal opinion only.

I am in court frequently and have handled hundreds of cases involving parenting time. I am proud to represent both mothers and fathers, advocating for their rights and ensuring that their voices are heard in matters that affect their families. I have advocated for equal time, supervised time, and everything in between. If there is one thing that is certain in every family law case, it is that there is no one-size-fits-all plan.

I strongly oppose House Bill 3095.

Equal parenting time may be in the best interests of some children, but there are several reasons why this may not always be the case. Every family situation is unique and the current legal framework rightly directs the court to prioritize the best interests of the child. HB 3095 shifts the focus away from the child and instead focuses on ways to maximize time with each parent, presuming equal (or approximately equal) parenting time is best, with little regard to the impact on the child.

I believe the proposed bill would lead to increased litigation in cases where equal parenting time is not in the child's best interest. Under the "presumption", a parent would have little to lose in litigating their case to obtain equal parenting time, even when such a schedule is not in their child's best interest. (I see this play out most often when one parent wants to reduce or eliminate their child support obligation.) I noticed a substantial increase in litigation over requests for equal parenting time after the 2019 changes to ORS 107.102(5)(c), even when an equal parenting time schedule was *not* in the child's best interest.



Most litigants, whether self-represented or with legal representation, often assume that custody and parenting time decisions hinge on discrediting the other parent's abilities or life choices in an attempt to "prove" they are the better parent. While this is not the case under current law, this bill makes it mandatory to attack the other parent, as it becomes the only means to modify a parenting plan—even in cases where changes are needed for reasons such as a parent's relocation, work schedule adjustments, changes to a child's school or daycare, or shifts in extracurricular activity schedules. Requiring a parent to undermine the other based on perceived parenting shortcomings heightens the emotional tension of litigation and has a direct and negative impact on children.

There are a number of reasons an equal parenting time can be problematic for the child. For example, when parents live far apart, equal time means long commutes for the child, leading to a disruption of their daily routine (school, extracurricular activities, etc.). A child with equal parenting time may find it harder to engage in regular social activities or extracurricular events in situations where one parent is unwilling or unable to maintain the child's activities, which interferes with normal childhood experiences. When one parent has an unpredictable or demanding job, it can be difficult for that parent to care for the child as effectively as the other parent. In some cases, one parent might not be as actively involved in the child's life, either because of lack of interest, emotional unavailability, work, or limited ability to meet the child's needs. If a child has special needs, equal parenting time can be difficult to manage. Children with special needs often require tailored care, therapies, and stable routines that are better provided by one primary caregiver who understands their specific requirements.

While equal parenting time can work in certain circumstances, it is not the best arrangement for every child. What matters most is ensuring that the child's emotional, psychological, and physical needs are being met. Courts should continue to look at each child's needs and tailor a plan that meets the unique needs of the child, considering their best interest.

The rigid one-size-fits all approach of HB 3095 will fail Oregon children. The primary goal should always be the child's well-being, not simply equality in time.

Sincerely,



Shallon Martin