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Chair Kropf, Vice-Chairs Chotzen and Wallan, and members of the House Judiciary Committee:

OTLA opposes HB 3095 as written because it would have sweeping negative impacts on Oregon families. The bill would create a rebuttable presumption that equal parenting time is in best interest of children in all circumstances and would require the court create a parenting schedule that “maximizes the practicable parenting time with each parent” even in cases where “the court rebuts the presumption.”* due to concerns related to endangerment or safety of the parties. (*Usually it is a litigant and not the court who is responsible for rebutting a presumption by putting on evidence to the contrary).

The bill provides no guidance for courts to consider in determining whether the presumption has been rebutted, nor does it define “maximum practicable parenting time.” It would create additional hurdles for victims of domestic violence, bullying, or emotional abuse to jump through in order to protect their children. It would require parents to share equal parenting time even in cases where a parent does not want it. There are no exceptions for the needs of children based on their developmental level or other needs. For example, as written, the bill would presume that equal parenting time is the best interest of nursing newborn. What is the “maximum practicable parenting time” a court should be required to order in cases involving a physically abusive parent? Or one with a substance abuse disorder?

This is a complex issue that deserves more attention and nuance than this bill provides. If the legislature is interested in changing the way the courts award parenting time in Oregon, it should bring in stakeholders to weigh in on what is in the best interests of children, such as medical and mental health providers specializing in childhood development, educators, parents and parent groups, etc.

The courts currently have the right amount of discretion to award parenting time that is in the best interest of children. And they are encouraged to create custom parenting plans to meet the needs of each individual family. Under the existing law, if a parent asks for equal parenting time and a judge does not award it to them, the judge must provide a written explanation of why the judge decided equal parenting time was not in the best interest of the child. As written, this bill would force judges to maximize “practicable parenting time” with both parents, even if doing so would not be in the child’s best interest.

Sincerely,

Cassie Purdy
Political Director
Oregon Trial Lawyers Association