ACCOUNTING
588-5601
CLERK'S OFFICE
588-5105
COURT ADMINISTRATION
588-5368
DISPUTE RESOLUTION
SERVICES
588-7988 Fax: 589-3224
JURY MANAGEMENT
588-5371
PROBATE
588-5141
RECORDS
588-5101

CRIMINAL COURT
4000 Aumsville Hwy.
Fax: 588-6822 TTY: 588-6820
JUDICIAL STAFF
588-8484
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CLERK'S OFFICE
588-8489
RELEASE OFFICE
588-8560

JUVENILE COURT
3030 Center St. NE
Fax: 361-2676 TTY: 585-4946
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CIRCUIT COURT
THIRD JUDICIAL DISTRICT
Marion County Courthouse
100 High St. NE
PO Box 12869
Salem, OR 97309-0869
Fax: 373-4360 TTY: 373-4444

February 25, 2025

Representative Jason Kropf, Chair
Representative Willy Chotzen, Vice-Chair
House Committee on Judiciary

Re: Presumption of Equal Parenting Time HB 3095

Chair Kropf, vice-Chair Chotzen and members of the Committee:

My name is Sean Armstrong. I am a Circuit Court Judge in Marion County. I serve as the Chair of the Marion County Local Family Law Advisory Committee, as a Member of the Parental Involvement and Outreach Subcommittee of the Oregon State Family Law Advisory Committee, and as a Member of the Oregon State Family Law Family Advisory Committee. I have also served as a Member of the Oregon State Bar Family Law Executive Committee and as the Marion County Bar President.

In addition to my regular caseload, I manage a docket composed solely of self-represented individuals with custody and parenting time disputes. I frequently conduct judicial settlement conferences for parties seeking a more collegial alternative to contested divorce, paternity, custody, and parenting time hearings. Prior to taking the bench, I was a shareholder at Garrett Hemann Robertson, PC in Salem, where I practiced primarily family law for 14 years.

These thoughts are my own. I offer this testimony based upon my experience as both a Circuit Court Judge and family law practitioner. I do not represent the Marion County Circuit Court, the Oregon Judicial Department, the State Family Law Advisory Committee, or any other public or private body. I am grateful for the opportunity to participate in the legislative process as a citizen and thank you for your time and consideration.

I provided written and in-person testimony regarding a similar bill, SB 318, in 2019. A copy of my written testimony in that matter is attached. I oppose this bill for the same reasons that I opposed SB 318.

HB 3095 supplants the fact-specific inquiry the court must make in determining the best interests of the children with the legal fiction that presumes equal parenting plan would be best in all circumstances, for all children, and for all families. A parenting plan cannot be "one size fits all." Here is a brief and incomplete summary of some of the many factors that the court considers in crafting a parenting plan;

- Ages of the children, including the gap in ages between siblings.
- Relationships between the children, step-parents, and step-siblings.

- Relationships with other family members.
- Geographical concerns—where the children attend school, how many different schools they might attend, where each parent works or attends school, work/school commuting distances.
- Daycare considerations—when do they open and close?
- Time constraints—how far apart do the parents live, how far does each parent live from each child's school, and what time do the children get dismissed from their respective schools?
- Are the children in broadly different developmental stages?
- What level of emotional intelligence and parenting skills does each parent bring to the table?
- Do the children have any special needs such as an IEP, serious illness, developmental disability, or terminal disease? Is one parent better qualified to address those concerns?
- Is there a history of abuse or neglect of a child?
- Is there a history of domestic violence between the parties?
- Is there a power imbalance between the parties that, while not rising to the level of abuse as defined by the law, suggests significantly difficulty in establishing a workable co-parenting relationship?
- Are the parents able to self-regulate, or do they need the court to order an alternative communication mechanism such as Our Family Wizard to moderate their conduct?
- Is there a history of addiction that has impacted and will continue to impact a parent's ability to parent or the amount of time a parent can dedicate to parenting?
- Do the parents involve the children in their personal animus toward each other?

The presumption set forth in HB 3095 is not supported by any peer-reviewed social science of which I am aware and would ignore or minimize the significance of these and the many, many other factors that judges must consider in crafting a parenting plan. Oregonians would be much better served by keeping the current statutory scheme that requires the court to consider only the children's best interests without regard to the artificial and unsupported mandate of equal parenting time.

Respectfully,

Honorable Sean E. Armstrong
Circuit Court Judge

SEA; tmc

TESTIMONY REGARDING SB 318—EQUAL PARENTING TIME

Before the Senate Judiciary Committee of the Oregon Legislature
March 6, 2019

Submitted by:
Sean Armstrong, Circuit Court Judge
Marion County

Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

My name is Sean Armstrong. I am a Circuit Court Judge in Marion County. I serve as the chair of the Marion County Family Law Executive Committee. I am the Judge member of the Marion County Domestic Violence Council. I am a current member of the Parental Involvement & Outreach Subcommittee of the Oregon State Family Law Advisory Committee, and a past Member of the Oregon State Bar Family Law Executive Committee.

In addition to my regular caseload, I also presently run the entire self-represented family law litigant docket in Marion County. I also routinely serve as a settlement conference judge, handling as many as three settlement conferences each week for family law litigants who seek alternative dispute resolution in lieu of trial. Prior to taking the bench, I was a shareholder at Garrett Hemann Robertson PC in Salem, where I practiced family law for 14 years.

These thoughts are my own. I offer this testimony based upon my experience as both a Circuit Court Judge and family law practitioner. I am not representing the Oregon Judicial Department today.

I oppose SB 318 for three reasons.

1. **Families, and their needs, are unique.** When families are in crisis (as if often the case at the end of a relationship) they need courts to have wide latitude to craft a child-focused parenting plan. A bill that mandates an equal parenting plan in all cases ignores the wide variety of family and parent/child dynamics at play. Even in cases where no actual physical or emotional abuse occurs, families have varying power structures. Parents have differing skill sets. Children have a variety of needs based upon their ages, emotional maturity, and level of attachment to each parent. The current state of the law appropriately requires the court to focus solely upon the best interests of the children without regard to what their parents perceive as "fair." There is no evidence that perceived "fairness" is a reliable mechanism for predicting appropriate outcomes for children.

2. **Equal parenting time, as conceived of here, rarely exists in intact families.** The presumption of equal parenting time is not the reality for most families, who have long ago figured out who will serve as the primary parent—who will handle medical appointments and school counseling, who will prepare meals for the children, bathe them, dress them, and take them to school. In my experience, these tasks are rarely equally shared. While children are undergoing the difficult transition from intact to separated family, they need above all else a stable and effective transition that relies upon education and skill-building for the parents, rather than an artificial plan that would rarely reflect the reality of their intact family childhood experience.

3. **This bill would shift the focus of litigation from a child-based model to a parent-based model.** I spend hours educating parents about the value of working together in mediation to agree on a plan that actually benefits their children, with the objective of recognizing that their individual strengths and weaknesses should be respected rather than attacked. Most litigants, whether self-represented or represented by attorneys, start with the presumption that custody and parenting time decisions depend upon maligning the other parent's skills or life choices in an effort to "prove" they are the superior parent. While that is not the case under current law, this bill makes attacking the other parent mandatory because it is the only mechanism for adjusting a parenting plan—even when, for example, the plan should really be changed to accommodate relocation of a parent, a change in work schedules, changes to a child's school or daycare arrangements, or scheduling around extracurricular activities. Forcing a parent to attack the other based upon perceived inability to parent can only serve to increase the emotion associated with litigation at time when children are particularly vulnerable.

Thank you for considering my comments.

Respectfully submitted,

Sean Armstrong, Circuit Court Judge