

Submitter: Lissa Kaufman
On Behalf Of:
Committee: Senate Committee On Judiciary
Measure, Appointment or Topic: SB1130

Dear Committee,

I am a family law lawyer with 29 years of legal practice experience in Oregon. I am writing to express strong opposition and outright concern about SB 1130. I want to make clear that I support the enforcement of parenting plans and regular and meaningful access of each parent to their children if best for the children involved. I have represented parties on all sides of cases where a child resists time with one or both parents, including the child. These cases are among the most complicated cases because no two families are alike.

All families and children are different. Children are not chattel to be exchanged and divided without care and consideration. These measures fail to consider the children's best interest, cast blame on one parent for what is likely a deeply complex situation, and would likely create chaos and family rifts far beyond what its well-meaning drafters intended.

It is frustrating for a parent when a child resists or refuses contact with that parent. It is often very frustrating for the unresisted parent. While litigants look to courts to "fix" the situation, there is not always a judicial solution. One expert likened a "resist/refuse" situation to a badly broken bone. If the Courts attempt to force the bone back into place, it will cause more damage and/or never heal properly. Instead, the best practice is to give the bone tools and opportunity to heal before forcing anything.

Courts have a role in monitoring these cases and making appropriate court orders to address whatever circumstances led to the lack of parenting time. Sometimes this does require holding one parent accountable. Other times it can involve court ordered therapies or other intervention. Research shows that status checks for progress can be effective. The point is that Courts already have the discretion to take measures that are appropriate for each family and child, with the best interests of the child(ren) in question as a guiding principle. This measure would remove that critical discretion.

Finally, while most often, a custodial parent has at least 50% of the parenting time with a child, there may be circumstances where this is not in the child's best interest. Families and children are as distinct from each other as anything in nature. The Court should not be hamstrung by unnecessary constraints.

I am proud to be a part of a family law bar and bench that gives so much attention and consideration to the families in our community. Creating strict rules and presumptions does not serve these families. SB 1130 is unnecessary and dangerous. The Courts have the tools to address the issues presented in a manner that serves each family and child.