CIRCUIT COURT OF THE STATE OF OREGON
FOURTH JUDICIAL DISTRICT
MULTNOMAH COUNTY COURTHOUSE
1200 S.W. FIRST AVENUE
PORTLAND, OR 97204-3201

MAURISA R. GATES
JUDGE

PHONE (971) 274-0668
FAX (503)276-0942
Maurisa.R.Gates@ojd.state.or.us

March 9, 2025
Oregon State Legislature
Senate Committee on Judiciary
Sent Electronically for Testimony on March 12, 2025

Re: Senate Bill 1130 (Proposed Amendments to ORS 107.105 and ORS 107.434)
Statement Opposed to Amendments

Dear Chair Prozanski, Vice-Chair Thatcher, and Members (Broadman, Gelser Blouin, Manning (Jr.), and McLane):

My name is Maurisa Gates. I have the privilege of serving as a judge in the Family Law Department for Multnomah County Circuit Court. I wanted to share my thoughts based on what I have experienced in the courtroom presiding over cases.

I have signed over hundreds of judgments that come to me uncontested and stipulated to by the parents of children regarding custody and parenting time issues. These are the cases in which the two parties can co-exist and speak to each other in a civil manner and discuss issues of parenting time and custody. The contested matters that come before me are ones in which the parties are there because they cannot communicate in a civil manner with each other, or fundamentally have strong disagreements regarding parenting time issues. The reasons for that may vary. Some are because of power and control dynamics. Some are because of personality flaws. Some are because one parent has unrealistic expectations. This list is not exclusive. In too many of the cases, because of the emotional entanglement that still exists between the parents when they do not like each other, the needs of the child are not being put first.

With the above factors in mind, I want to address the proposed amendments. It is not uncommon when one party files an enforcement of parenting time action, that neither parent has been following the parenting plan from the judgment. In addition, the plan that is in force may have been done when the child was a toddler, and at the time of the enforcement hearing the child is significantly older (preteen or teenager). The way the amendment is written, you will have the court enforce a plan that neither parent has honored and that is no longer in the best interests of the child because what is appropriate for a toddler may likely not be appropriate for a teenager. Furthermore, other important factors may have revealed themselves since the last judgment. The child may have been diagnosed with developmental issues, mental health issues, or have medical issues, that one parent is better equipped

to deal with than the other. In addition, one party's treatment or actions towards the child may be the root cause of why that child does not want to see that parent. It may also not be logistically possible to have the same parenting plan because the locations of both households have changed since the judgment was signed.

A one size fits all approach, is not a child-centered approach, or, for that matter, a family-centered approach. To determine what is in the best interest of the child, the court needs to assess the situation at the time of the action based on the evidence presented and the totality of the circumstances. The current statute allows the court to set a modification hearing when it determines that the current plan is no longer appropriate. *ORS 107.434(2)(a.)* By not taking into account the aforementioned factors that may be at play at the time of an enforcement action, or others that are relevant, enforcing a judgment that is outdated could do harm to a child.

ORS 107.434 (2)(a)(C) currently allows the court to consider what is in the best interest of the child when considering whether to grant compensation for wrongful deprivation of parenting time. The amendment of ORS 107.434(3)(b) appears to take the best interests of the child out of the equation.

Addressing the amendment ORS 107.105(1)(F)" . . . However, the court may not award a noncustodial parent more than 50 percent visiting time." This blocks parents from agreeing to one party having sole custody, and the other having over fifty (50) percent parenting time due to work issues. This means that the court could not grant this when parties stipulate to it. I can envision a situation where the custodial parent works the swing shift. Non-custodial parent agrees to have kids during that time (at night) for those days which results in the noncustodial parent having more than fifty (50) percent parenting time.

In the adversarial process between two parties, the parties' respective interests may not be in the best interests of the child. When they are advocating for different things, one party is going to leave the courtroom not getting what they requested. By keeping the focus on what is in the best interests of the child, what generally happens is neither party gets all of what they requested.

Thank you for your time,

Maurisa Gates

Circuit Court Judge