

Public Hearing - Senate Bill 736

Joseph Cowles

March 6, 2019

My Background

- Non-custodial parent
- Divorced when my child was one year old
- Education
 - Bachelor of Arts degree in Education
 - Master of Business Administration Degree
 - Birth to Three, Birthing class, “Love and Logic” parenting class
- Community involvement and extensive experience with children
 - Six years of raising awareness at the State level
 - Volunteer (coaching and school activities)
- No criminal background

Legal Custodial Parent

- The parent that makes all major decisions regarding the child (education, healthcare religious training, and residence)
- Options - Joint Custody or Sole Custody
- If one parent does not agree to joint custody, the court shall *award* sole custody to one of the two parents - ORS 107.169(3) states, “The court shall not order joint custody, unless both parents agree to the terms and conditions of the order.”

The Benefits of Sole Legal Custody

- The Families
 - The theory is to minimize parental conflict for the best interest of the child
 - Protection victims from any further abuse
- The Industry
 - Litigation is a significant revenue driver
 - Judgements by the state – state loans at above market interest rates (9%)

The Pitfalls of Sole Legal Custody

- Zero-sum game – no potential for nuance of possibilities
- Child in the Middle - Awarded to the winner
 - What would you do for your child when you are in crisis?
- Alternative Reasons
 - Fight or Flight - prefrontal cortex to reptilian aspect of limbic system
 - False benefits - control, entitlement, alienation, money
- Legal Disenfranchisement of One Parent
 - Parental alienation (often mistaken for a deadbeat parent)
- Parental bias - 80.4% national average (2016 US Census Bureau) – to which parent?
 - Equality should not be picked and chosen - it should be across the board

Decision Making Responsibilities - A Better Way

- Major decision-making responsibilities - education, healthcare religious training, and residence (already defined in Oregon state law)
- Instead of sole custody - “...the court *shall* allocate to one or both of the parents the significant decision-making responsibility for each significant issue affecting the child.” - ILCS 5/602.5(b)
- To protect children and victims of abuse - “the court *shall* allocate decision-making responsibilities according to the child’s best interests. Nothing in this Act requires that each parent be allocated decision-making responsibilities.” - ILCS 5/602.5(d)
- The State of Oregon can do what it claims - “...the court *shall* give primary consideration to the best interests and welfare of the child...” - ORS 107.137(1)

*Sole custody disputes are not in the best interests and welfare of the child. Preservation of parental involvement is in the best interests and welfare of the child.

What This Means for Families

- In disputed cases, the court can tailor-fit parenting arrangements on a case by case basis to preserve the involvement of both parent in the child's life
- Parents can agree to disagree - there are reasons they are dissolving their togetherness
- The court can use the conservatism it sees fit - it can still protect parents and children who are victims of abuse by allocating all the decision-making responsibilities to the more fit parent (just the same as sole custody)
- Example: A married couple is getting a divorce and they have a child together. They cannot agree on decision-making responsibilities and they go to courts. When asked, the husband says that his primary concern is education for the child. The wife works in healthcare and she says that her greatest concern is healthcare. Both parents are Jewish and they have similar religious beliefs. In my proposal, the court can rule that the husband is responsible for the major decisions regarding education and the wife is responsible for major healthcare decisions. Both of the parents are responsible for the religious training. The residence would also be allocated, preferably based on parental equality.

Work Group One

- Coordinated by the Senate Judiciary Committee chair - Senator Prozanski
 - Counsel of the judiciary committee (group coordinator)
 - PhD in Psychology
 - Family law attorney
 - Public Affairs Director of star bar
 - Director of state legislative advocacy group
 - Me
- Coordinator committed to draft a bill modeling the Illinois statutes then it went quite
- Good news and bad news - SB 898 was drafted, but it was not a bill that modeled the Illinois statutes - it was a bill to create a bigger work group (task-force)

*SB 898 died in Ways and Means

Work Group Two

- Coordinated by the Senate Judiciary Committee chair - Senator Prozanski
- Same members – the PhD in Psychology + new members (none of which were professionals in human services, per my request) = added special interests, more resistance, and further bureaucracy
- From collaborative and active involvement to silent inactivity - five meetings in a thirteen month period
- Two surveys - “high priority” status on changing the term *custody* to *parental responsibilities* - even with the suggestive selling by the state to members of the group
 - “Potentially several chapters and hundreds of changes”
 - “Perhaps making a change within the definitions section of certain statutes or other strategies to limit the number of statutes impacted”
- End result - executive decisions were made behind closed doors and SB 736 was created

*SB 736 was not enacted by the People of the State of Oregon - it was enacted by selective individuals with vested interests

Antiquated Terms, Side Effects, and Irrelevant Studies

- Custody means imprisonment – 15th century England
 - A prisoner is taken into *custody* and is allowed periodic *visitations* from loved ones
- Sole custody protects victims (there is a better way)
 - Custody disputes breed division, marginalization, alienation, and conflict in a family
 - Adverse effects - child manipulation, fight or flight tendencies, filicide (in extreme cases)
- Prior task-force - a longitudinal research study in Australia (titled: Post-separation parenting arrangements and developmental outcomes for infants and children)
 - Different culture, different law, and a different time

The Resistance

- Loss of federal government funding - Illinois found a way
- Complexity of the task and the workload (the puppet strings effect) - the people come first and it is worth it
- Victim protection from abuse - although true, there is a better way
- It can take ten years, twelve years, fifteen years...to make progress - set the bar higher

*Documentation of the resistance - “Broken Too” by Joseph Cowles

Conclusion

- Stop taking advantage of families that need the most help
- Families feel the damage of custody disputes
- Professionals in human services understand the damage of custody disputes
- Professionals in family law resist to change to protect the status quo
- The State of Oregon needs better roadmap for families who are transitioning into two households
- A better solution - the allocation of decision-making responsibilities
 - Precedence has been set
 - We do not need to reinvent the wheel (including federal funding)
 - We can do the work!

*This is not a “father’s rights” movement. This is a movement for human rights and parental equality.

Next Steps

- Amend and pass SB 736 - stop the inner-family wars and marginalization of parents that leave families broken beyond repair
- Actions speak volumes - if not now, then when?
- Another work group?
 - “The People” – retired educators, family doctors, psychologists, tenured social workers, custodial parents, non-custodial parents, grown children of custody disputes, etc. (not professionals who benefit from litigation or status quo)
- A ballot measure? Is this a legitimate alternative solution?

*Public officials are elected by the people for the people - not for the industry