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