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March 5, 2019  
Testimony in Opposition to SB 318

Chair Prozanski, Vice Chair Thatcher and members of the Committee:

I am the executive director of Clackamas Women's Services (CWS), a community-based non-profit agency that has supported survivors of domestic and sexual violence, stalking, trafficking and elder abuse on their path to safety and stability for over 30 years.

I am writing to express our agency's concerns with SB 318 which proposes codification of a legal presumption that equal (50/50) parenting time is in the best interest of children. Our first concern is that we are unable to find research that supports this presumption. We agree that children benefit most when they have regular access to loving and safe parents and we believe this is currently reflected in Oregon statutes that establish principles and standards that highlight the importance of both parents in the establishment of parenting time orders. The presumption that equal parenting time is in the best interest of all children does not take into account a multitude of factors. Factors such as parent's employment schedules, protective factors, children's developmental stages, exposure to past trauma or adverse childhood experiences, school location and so forth. We believe that parenting time plans should affirm what is in the best interest of the child and there is currently a process in place to assessing this on an individual basis- which supports the formula that each child has unique needs and a unique set of factors. What is "fair" to the adults involved should not be imposed as the standard for what is in the best interest of the child.

Second, the bill provides that this presumption could only be rebutted by one parent's showing, by clear and convincing evidence, that the other parent's "lack or inability with respect to the child will cause substantial risk of harm to the child's health or safety." This shifts away from a framework of decision making that is guided by the "best interest of the child" and only considers substantial risk of harm. This impedes the courts ability to craft a child-focused parenting plan. It makes attacking the other parent a requirement if there is disagreement about the structure of the parenting plan.

Furthermore, the high standard for rebuttal moves closer to the standard in the criminal system and away from the current standard that is aligned with civil proceedings. In the criminal system there is a prosecutor and a defense attorney there to navigate this standard of proof. This high standard will create significant barriers for parents who do not have access to legal counsel or the ability to navigate the legal system. For victims of domestic violence this standard can be untenable as they often face further harm from the abuser as a result. The law currently takes into account the dynamics of domestic violence, and this statute stands to unravel that- putting untenable responsibility on the victim.

We hope that you will consider these concerns.

Sincerely,

  
Melissa Erlbaum, MFA