

Chair Prezanski, Senator Thatcher, and members of the board:

I write this testimony to you today following my attempt to express my thoughts during the hearing this morning. Sadly my emotions got the best of me and I was unable to voice my thoughts and feelings on this matter.

As I stated during the hearing, I am an officer with the Oregon Youth Authority. I have supervised and been responsible for thousands of children in the more than 22 years that I have worked in this capacity. I am responsible for their well-being in every way, as well as the safety of the public. Within my facility I am known as the guy they call when they need to calm someone down; I always keep my cool. I can pass any background check and I have never had any history of drug or alcohol use or abuse. Most importantly, I have paid child support like clockwork from day 1 without any involvement from Child support enforcement needed at any time. Regardless of these facts, I have been deemed unworthy to provide care to my own children beyond a weekend a month during the school year.

I used to believe, as a caring father who has provided for his family by working hard and putting my needs last, that the court was here to assist me and that I had nothing to fear in pursuing my rights. I have since learned that is not the case. When my wife was discovered having an affair, she opted to pack up our kids and move to Klamath Falls from Albany. She claimed it was to live with her mother, but really it was to move closer to her boyfriend. My attorney failed to advise me that I could stop her from moving, so I opted to try to work with her in order to maintain a relationship with my children. I felt that the kids would benefit if we could just work together. We initially agreed to a 50/50 parenting plan, however the way it was written was not thorough enough and ultimately became problematic. My ex-wife's demands began to exceed reasonable and we began to disagree over matters outside of the kids. She wanted to change the divorce property agreement years after it had been settled between us. I refused to concede to her demands. In response, she decided to start withholding visitations intermittently and contact with my girls (now 11 & 14) became a little limited. Initially I was calling the girls every night to talk about their day and wish them goodnight. But as time progressed, I wasn't able to reach them every night any longer. About 18 months after our divorce she remarried. Following her marriage, she became more and more demanding – expecting me to modify visits and travel to accommodate her requirements. I continued to try to work with her, as I always had, believing that working with her was better for the kids.

Just short of 3 years after my divorce, I remarried. I found myself in a healthier place mentally and I began to take a stand; finally pursuing those rights that I was supposed to have as a 50/50 parent. My ex-wife was not happy to see that change. She became increasingly hostile and angry towards me; the calls with my girls became more sporadic. The girls would ask to “keep it short” and would have other things they needed to do. When I pushed to have the girls for visitation periods I was entitled to, against my ex-wife's wishes, she would refuse to show up for the exchange (the top of the pass near Oakridge) and when I did finally get the girls she would call every night and demand constant access, often upsetting the girls and interrupting my time with them. The more I pushed to enforce my rights, the less cooperative she became. She would call and scream obscenities at me and demand that I do as she said. Sometimes her husband would join in those calls. Many of them have taken place immediately following me speaking to the girls on the phone (I have many recorded and available). Ultimately, my ex would say “we have to agree, and I don't, so you will have to do it my way or not at all”. The more I fought for my

rights, the worse it got. My calls to the girls became limited to Sunday's only between 5pm and 7pm due to my ex-wife's requirement (not a court ordered decision).

Things kind of came to a head when I finally received the girls for Christmas break and actually kept them for Christmas for the first time in 4 years. My ex called and threatened me, claimed I had kidnapped them, and actually told the girls during a phone call on Christmas Eve that she had been expecting them to return home and had waited for them at the exchange point. I had notified her of their return date after Christmas more than a week before. She knew it was legally my Christmas with them and that I was well within my rights to keep them. I also am confident she never went to the exchange. This was just another example of the parental alienation that has been increasingly problematic. Following that Christmas vacation with me I did not see the girls for 6 months. My ex-wife refused to show up for exchanges and began to ignore my attempts to communicate with her or the kids. She would end phone calls with the girls if she didn't like where the conversation was going. She would end calls if the girls spoke to my wife or our son. The girls began to get on the phone with me and call me by my first name, yell at me, say "we know we don't have to talk to you" and "you don't deserve any respect". It was becoming harder and harder for me to interact with them on any level.

Finally, we ended up in court in Klamath Falls to obtain an enforceable parenting plan. My attorney told me the only way I would be able to obtain full custody was if I could clearly establish their mother was unfit. Otherwise, my attorney said we would have to agree to let her have full custody because the court would not order a 50/50 plan when there was a clear disagreement between the two of us, regardless of whether or not I was the cause of the disputes. A custody evaluation would cost me \$5100; I could not afford this expense. I was told to expect my ex-wife to walk away with full custody and me having a standard long-distance parenting plan. This seemed highly unfair to me, as it was her choice to remove the children from their family and friends in Albany and it was her refusal to allow me to see my girls that was damaging my relationship with them already. My ex-wife was doing all of this in an attempt (in part) to increase my child support payment by 300% since the payment considers how many overnights each parent has. Limiting my access increases her overnights, thereby increasing her pay according to her understanding. When we went to court the judge heard my ex-wife's statement regarding 4H activities and other reasons why she didn't feel we should have a standard long-distance plan. The judge heard my older daughter (13 at the time) talk about various excuses why she didn't want to see me for visits. My daughter spoke of how she wanted to join the swim team but failed to mention she couldn't swim. She spoke of how she had self-diagnosed herself with depression due to "conflict" with me but didn't mention we hadn't spoken in months and I had not seen her in 5 months. Every statement made was carefully scripted parental alienation from my ex-wife. My daughter went so far as to claim that my wife and I had withheld her access to her own cell phone during her Christmas visit months before, except she didn't even have the cell phone until January. After hearing from my ex-wife and my daughter, the judge never asked for any input from me. She never asked me to respond to statements from either my ex-wife or my daughter. I was not given any opportunity to provide evidence to clarify the source of these disputes. When I walked out of that courtroom the only thing I could find solace in was knowing that at least I had a parenting plan that I could enforce. My contact was limited, my time with my children was limited, I was chastised by the judge for the "poor relationship" with my children... but at least I was going to be able to see them again!

Since that date in court my ex-wife has not ceased to battle me on every little thing she can. She has tried to enforce a regular parenting plan when ours is a long-distance plan. She has claimed we didn't

agree on the dates of visits so she doesn't have to honor them. She has disputed school holidays, claiming they are hers, when they aren't even recognized in the long-distance plan. Every single step of the way I am having to fight to stay involved with my daughters.

It is my understanding that the idea of sole physical custody when parents cannot "get along" is due to the belief that assigning sole custody to one parent limits the children's exposure to high-conflict situations. This belief has been wrong from the beginning. Johnston, Kline & Tschann (1989), who wrote the study that was cited as evidence for this argument, stated the study was misinterpreted and "misused". Nielsen reports there were many assumptions made in the idea that low conflict and cooperative co-parenting are essential in order for joint parental custody (JPC) to be beneficial. First, it assumes "children are more likely to be caught in the middle of disagreements, pressured into loyalty conflicts, or forced to align with one parent against the other in JPC than in SPC families" (2017, p. 215). Given my experience, and many of those who testified before you, clearly this is not the case. Second, the assumption is that "JPC parents have to communicate far more often and must work much more closely together than SPC parents" (Nielsen, 2017, p. 215). If a clear cut, thorough parenting plan were designed and initiated there is no more need to communicate in JPC cases than in SPC. Third, there is the assumption that "JPC parents have very little conflict from the outset, mutually and voluntarily agreeing on the arrangement with little to no pressure or interference from others" (Nielsen, 2017, p. 215). Nielsen goes on to point out that "if these assumptions are correct, then whatever positive outcomes for children might be linked to JPC may in fact be linked to low conflict and cooperation, not to living with each parent at least 35% of the time" (2017, p. 216). The study cites Braver (2014) who says that "absent domestic violence, the quality of the parents' relationship with the children is more closely linked to children's well-being than the quality of the parents' relationship with one another. Reducing the children's time with one parent is likely to weaken their bond but is not likely to reduce the parents' conflict or to protect the children from it". Nielsen goes on to cite Bernet, Wamboldt & Narrow (2016) and their discussion of the DSM-5 identification of a condition named "child affected by parental relationship distress" and how the "parents' distressing behaviors include high levels of disparagement, ongoing animosity, abusive language, threatening language, coercive interactions, or physical violence. These children may develop behavioral problems, loyalty conflicts, anger, anxiety, depressed mood, and psychosomatic problems" (2017, p. 216). This conflict statistically affects girls more so than boys.

Wolman & Taylor did a small study that compared 12 children whose parents settled custody disputes without attorneys, petitions, or court hearings to 19 children whose parents did have legal disputes. The sample was from a diverse area in Massachusetts and the groups were matched based on demographic variables. The children were interviewed at 3 month intervals for the first 12 months and then again at 18 months. At the end of the process, the 19 children in the contested cases had better outcomes in almost every measurement. The authors of the study stated the results may have been due to "the increase in open discussion of family conflict which often occurs in the context of custody litigation, increased opportunities for catharsis, and pressures to resist parental lobbying" that may have provided the children the means to develop "adaptive coping mechanisms and a stronger sense of personal influence on events" (1991, p. 409). This goes leads one to question the argument that parental conflict results in significantly worse outcomes for these children. Nielsen refers to nine studies that compare the conflict levels at the time of separation for JPC and SPC parents. In six of the nine studies there were "no significant differences in JPC and SPC conflict at the time of separation" and "seven of the nine

studies fail to support the belief that JPC couples have significantly less conflict than SPC couples at the time they are separating” (2017, p. 220). In two studies the JPC couples did have less conflict than the SPC couples, demonstrating that conflict should not be linked to the level of conflict between the parents. This is further supported by thirteen studies that evaluated whether JPC couples have significantly less conflict than SPC couples. In 10 of the 13 studies, JPC and SPC conflict “was not significantly different in the years following their separation” (Nielsen, 2017, p. 220). Another study evaluating a large random sample determined “parents with shared time (JPC) and those with traditional mother custody (SPC) do not differ greatly... This study shows that, if you take a group of ordinary divorced parents, the majority of them are managing to overcome their dislike and distrust of their former spouse in the interest of working out ways to raise their children” (Melli & Brown, 2008, p. 260). This means that, first and foremost, the reasoning for appointing SPC is not only faulty, but also damaging. A further argument that, regardless of the conflict between the parents, children who live in a JPC situation have consistently equal or better outcomes than those who do not is well-supported in the studies referred to up to this point. This theme carries through as more studies are evaluated to determine if SPC children end up better off than JPC children in high conflict and poor communication situations. In 16 of 17 studies, after accounting for parental conflict, “the children in JPC families had better outcomes on most measures than the children in SPC families and was not linked to worse outcomes on any measure” (Nielsen, 2017, p. 222). To further support JPC parenting, a study of more than 4300 children over a 10 year period of time, utilizing standardized measures to assess parental conflict and cooperation, evaluated children’s overall well-being and found “no statistically significant difference between adolescent children with modest conflict/high co-parenting parents and those with higher conflict/low co-parenting parents in regard to their grades, self-esteem, substance use, or liking school and feeling that life was going well” (Nielsen, 2017, p. 223).

Ultimately, the review of these studies identified several messages: the level of conflict and the quality of the parenting relationship are not as closely correlated with the children’s well-being as the quality of the parent-child relationship – which means simply that both parents are important; the quality of the children’s relationships with their parents mediate the connection between conflict and well-being; parents’ who utilize the courts to settle custody disputes has not been linked to worse outcomes for the children; JPC is associated with better outcomes than SPC even when the parents do not agree to the parenting plan and in the presence of conflict either initially or in subsequent years; JPC parents do not have less conflict or more collaboration than SPC parents; and lastly, limiting the time that children spend with one parent as a result of SPC does not result in better outcomes, even in cases of severe conflict and a poor co-parenting relationship (Nielsen, 2017).

As I listened to the attorney testimonies on this matter and heard the repeated reference to “anecdotal” and emotional stories and how they should not be considered in deciding upon this bill, I felt angry. While I understand the importance of the law and having a dispassionate view, it is vitally important for you to see that we are all parents who are seeking the best resolution for our children. If it were not for our anecdote’s you would have no idea what we have had to endure in our efforts to provide that for our kids.

In regard to statements made that noncustodial parents cannot fill the same needs as the custodial parent I must say this. While I may not be able to do some things as well as my ex-wife, we each have valuable skills and knowledge to share with our children. No marriage is 50/50; it is a partnership. There is no expectation that a partner will be an exact match. In fact, it is our differences that allow us to work

well together, as one partner balances the other. Following divorce those expectations cannot be expected to change.

Lastly, there were comments that 'low income' parties would be burdened by the rebuttal process and this bill would put victims in a position where they are trapped into dealing with their abuser. As my wife stated, there should be an expectation that legitimate, documented cases of abuse should be weighed by the court and considered as rebuttal evidence. That isn't complicated. It is actually very simple. It does put some responsibility on the victim to pursue appropriate action at the time the incident occurs, but it also protects parents from fraudulent charges of abuse and neglect that are submitted suddenly in the midst of custodial proceedings. That also appears to feed the assumption (and clear bias in the courts) that all noncustodial parents are 'deadbeats', 'abusers', or in some other way substandard. This is discrimination against those of us who have never broken the law, have never abused anyone, and have lived our lives with honor. Study after study demonstrates that shared parenting is the best thing for our children. Marginalizing one parent to simply providing financial support and insurance coverage in exchange for a monthly "visit" with their own children is a travesty! Were this bill passed, the court would no longer be looking to determine who will have SPC but will instead be guiding both parents to develop a shared plan regardless of their personal conflict. The incentivization of custody would be removed and both parents would be considered to have a legitimate role in raising their children. How can that not be in the best interests of Oregon's children?

Thank you for your time and for reading this statement. I am happy to answer any questions you may have.

Sincerely,

Joseph Tollefson

- See attached references (below)

## References

- Bernet, W., Wamboldt, M., & Narrow, W. (2016). Child affected by parental relationship distress. *Journal of the American Academy of Child & Adolescent Psychiatry*, 55, 571-579. doi:<http://dx.doi.org/10.1016/j.jaac.2016.04.018>
- Braver, S. (2014). The costs and pitfalls of individualizing decisions and incentivizing conflict. *Family Court Review*, 44, 175-180. doi:<http://dx.doi.org/10/1111/fcre.12079>
- Johnston, J., Kline, M., & Tschann, J. (1989). Ongoing postdivorce conflict: Effects on children of joint custody and frequent access. *American Journal of Orthopsychiatry*, 59, 576-592. doi:<http://dx.doi.org/10.1111/j.1939-0025.1989.tb02748.x>
- Melli, M., & Brown, P. (2008). Exploring a new family form - the shared time family. *International Journal of Law, Policy and the Family*, 22, 231-269. doi:<http://dx.doi.org/10.1093/lawfam/ebn002>
- Nielsen, L. (2017). Re-examining the research on parental conflict, coparenting, and custody arrangements. *Psychology, Public Policy, and Law*, 23(2), 211-231. doi:<http://dx.doi.org/10.1037/law0000109>
- Wolman, R., & Taylor, K. (1991). Psychological effects of custody disputes on children. *Behavioral Sciences & the Law*, 9, 399-417. doi:<http://dx.doi.org/10.1002/bsl.2370090405>