

SB 318 -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/6, 4/4

WHAT THE MEASURE DOES:

Creates a rebuttable presumption that equal parenting time is in the best interest of the child. Requires clear and convincing evidence to rebut the presumption. Places the burden on the parent challenging the presumption to prove that equal parenting time is not in the best interest of the child and 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. Permits the court to consider all relevant factors including the factors used to determining the best interest of the child for the purposes of custody determinations in ORS 107.137.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Replaces measure. Allows the court to develop parenting plans that order equal parenting time. Clarifies that the court may only deny a request for equal parenting time when it determines, by written findings, that equal parenting time is not in the best interest of the child or endangers the safety of the parties.

BACKGROUND:

After parents have separated or dissolved their marriage, parents may devise their own parenting plan that defines each parent's parenting time and responsibilities. ORS 107.102 and ORS 107.105. When parents are unable to devise a parenting plan or when either parent so requests, the court must develop the parenting plan based on the best interest of the child and the safety of the parties. ORS 107.102 and ORS 107.105. Current law states that "[I]t is the policy of this state to assure minor children frequent and continuing contact with parents who have shown the ability to act in the best interest of the child and to encourage parents to share in the rights and responsibilities of raising their children after the parents have separated or dissolved their marriage." ORS 107.149.

Senate Bill 318 creates a rebuttable presumption that equal parenting time is in the best interest of the child and creates standards and procedures to rebut that presumption.