

DATE: <sup>May 9</sup> ~~March 6~~, 2019  
TO: <sup>House</sup> Senate Judiciary Committee  
FROM: Lynnette Ayla Hofler  
RE: SB 318: <sup>o</sup> Written Testimony Continued

**“The Quality of the parent-child relationship is the best predictor of future outcomes for the children.”**

**Equal parenting time gives greater possibilities for quality, meaningful relationships.**

**SB 318 protects parents under the law, that as a fit parent, they are entitled to a minimum of 50 % time with their child.**

**“It is arguably Unjust for a system of family justice to determine the most important aspects of a child’s life, without hearing from the child.”**

**SB 318 protects the child under the law that they are entitled to be with each parent equally.**

**SB 318 raises the bar on defining an unfit parent, requiring clear and convincing evidence be presented; not just a preponderance of hearsay and inconclusive documentation.**

**SB 318 sets a uniformity across the state; No more winner take-all results in the separation of parents. It provided a new framework that puts co-parenting into a more balanced perspective.**

**Research shows, (Hetherington), that there is less adverse effects on children with regard to parental conflict, when children have equal access/time with each parent.**

**Research shows, (Warshak), that denying join custody when parents are in high conflict, brings additional drawbacks to children; it denies them the protective buffer of two nurturing parents.**

**Children deserve to know and live in the unique culture and traditions of each parent; in a constant, continuous, consistent time**

together, where good habits and daily expectations are learned. Both parents bring opportunity and experience to children. They should be able to wake up together, have breakfast together, do homework, chores and hobbies together, have dinner together and be tucked into bed at the end of the day.

SB 318 establishes the time for each parent to be able to do these things without interruption.

SB 318 prevents using an over simplistic approach for parenting time. Consideration of the child's developmental needs is totally INVALID.

Consideration of the who does the caretaking the most frequently is totally UNRELIABLE.

What does matter is who knows how to care for the child and who wants to. In today's world either parent is completely able to care for a child from one day old, to 18 years old.

SB 318 allows for this. Parenting Time should not be subject to broad judicial discretion that produces unpredictable outcomes. Two fit parents should be able to walk into a courtroom and know that one thing that can't be taken from them, is EQUAL time with their children.

If Oregon has a statutory preference to Joint Custody then why can't the judges utilize it despite parental conflict? In fact I believe it will cut down on the fighting because it is futile, no one is in complete control of the other. This also means that no longer is one parent seen as a loser, criminal, or without parental rights under the law. Both parents have the right to alert police, child protective services and urgent care of any concern for their child, and be listened to.

Joint Custody is the most common determination nationwide. It is compatible with SB 318 and would further support both equal parenting time and co-parenting behavior when developing a parenting plan.

The term visiting parent is an oxymoron; you are either visiting or you are being a parent. We must update family law in vocabulary.

**Preferably getting rid of custody and visitation all together, criminal proceedings language for fault/no-fault divorces and start using such terms as Primary Provider- one who chooses to provides a roof over the family's head, food on the table, health insurance, etc. while sacrificing time with the children; and Primary Caregiver- one who meets the needs of the children most often and may be sacrificing career or educational aspirations to stay at home. SB 318 is a start to upholding both parents' contributions and recognizing equality of meeting children's needs.**

**We need to set valid and reliable criteria for developing parenting plans and decision making authority. SB 318 offers equal time and may contribute to identifying logical preferences to decision making activities, such as: Health, who provides the most comprehensive health care plan? Perhaps that is who should be making the decisions. Education, who is the parent paying for the schooling?**

**Only parents, by mutual consent can change the percentages of time spent with each parent. This should be included in the SB 318.**

**Exception only for determination of an unfit parent.**

**Parenting plans should be identified as Living Documents that are subject to change as family dynamics change. Children at age 9 or the end of 3<sup>rd</sup> grade, whatever comes first, should have a say in where their time is spent. Children at age 14 or the end of 8<sup>th</sup> grade should have a second chance to alter where their time is spent. This gives them an opportunity to look at educational, social and vocational opportunities at each parents' location.**

**24 states nationwide are considering bills similar t SB 318. Citizens are up in arms to stop further destruction of the family by limited options in the courtroom and unpredictable protection of parental rights under the 14<sup>th</sup> Amendment of the Unites States Constitution.**

**One way to think of Parenting Time is to look at it like a football game. Where do you start? The 50-yard line. Each team is afforded at least 50 yards, equal and protected by the rules of the game. SB 318 is the rulebook for where we start with regards to parenting time.**

**TO:** All Oregon State Senators of the Judiciary Committee  
"Ayla"  
**FROM:** Lynnette Hofler, member of the Parenting Time Work Group  
**DATE:** January 10, 2019  
**Re:** SB 318: A BILL FOR AN ACT relating to parenting time in family law; to include presumption, subject to rebuttal, that equal parenting time is in the best interests of the child.

This letter is being circulated throughout the Senate, with the hopes that your support will result in this senate bill being heard in the 2019 Regular legislative session. It was promised a hearing last year with the full support of many of the senators on the Judiciary Committee, and yet at the last moment, relegated to a work group. This was the same end to a similar Bill, SB 898, addressing parenting time and language defining it.

This bill only deals with the creation of assurance, that minor children have the right to equal parenting time, with the presumption that equal parenting time is in their best interest, AND that rebuttal of this presumption must be supported by clear and convincing evidence.

This may seem like a bill to protect a parent's right to be with their child AT LEAST fifty percent of the time after the dissolution of the parents' relationship; and it is. However, it is really a Bill for a Child's right to grow up with both parents equally; sharing in the day to day living of each parent's unique lifestyles. A child cannot assimilate culture, beliefs, traditions, and values of a parent seeing them 4 days a month, let alone bonding in the first 3 months of their life. This is the sad reality of hundreds if not thousands of Oregonian children. With 50% of marriages ending in divorce, not to mention children born out of wedlock, there are a significant amount of children effected by the archaic, outdated methods of our courts in deciding parenting time.

Our current laws force local courts to decide on a primary custodial parent in the event the two parents cannot agree on joint custody, relegating the decided non-custodial parent to often severe limitations on parenting time, simply because the other party would not agree. So, when a parent wishes to maintain their equitable role in raising their children, as is often the case before separation, under current laws, they often lose equal access and the full rights of a parent, simply for requesting that equality. This bill is important because it presumes that equitable parenting time with both parents is in the best interest of our children, as supported by psychologists, social workers and pediatricians across the United States. Currently 50% of the States support equal parenting time and or joint custody, many with the added presumption that it is in the child's best interest and require rebuttal, Oregon is not one of them.

Currently, in Oregon, it is the norm for one parent to be assigned custody and the other non-custodial status. This is determined by "what is best for the child". Well the judges look at a growth and development chart based on the child's age to give an idea how much the child should be away from the custodial parent. This is biased and outdated information. Then the judge asks, "who does the child spend the most time with"? Another erroneous assumption, that who the child is with the most, is the one who automatically can meet the child's needs best. In this day and age, either parent is capable of meeting all the needs of a child. It does not matter if you are the mother or the father. We even have couples who are the same gender now, just to point out one obvious situation that is trending.

The parent who chooses to be the "Primary Provider", and sacrifice much of their time with the child to provide a roof, food, and health insurance, now becomes punished a second time, (made the non-custodial parent). When a couple separates, all previous agreements of who will be the "Primary Caregiver", should be void. No parent should lose their 50% minimum right to be with their child. Our "custodial parent", Winner-Take-All system must stop. Divorce is a money making issue for many who have conflicting interests about changing the system, including deadbeat dads, deadbeat moms, lawyers, judges, home evaluators, child support check department, etc.

Often, the Primary Provider, who is gone from the child more, is the parent with the best education, the best job that earns the most money and benefits, yet they are the ones told to take it or leave it, 4 days a month "visitation". Once this is agreed to, if this parent ever wants to increase their time with the child, most attorneys will tell the parent "good luck". They will say you will have to find the other parent abusing drugs or some other severely unsafe condition to get "visitation" altered. Modifying a parenting plan is not that easy and requires new and different circumstances and compelling reasons with often poor results. Not to mention the huge expense it is for the challenging parent. Custody and Visitation are terms of a sentence for a criminal act, decades ago, when divorce was heard out and one parent was found "at fault" they became the non-custodial parent with visitation rights. We have to stop treating one parent as a criminal for no reason and we have to start providing children equal time with their parents with the presumption that this is the best way for them to grow up.

Please do not let this be forgotten again; a year is a lifetime for a child to be separated for more than 50% of the time from their parent, without clear and convincing evidence that it is not in their best interest.

Please sign below in support of this bill to be heard in the 2019 Regular session.

Sincerely, 

Ayla Hofler BSN, B.S. Health Education, M.S. Divinity

# WHAT SB ~~550~~<sup>318</sup> WILL DO FOR OREGONIANS?

SENATE BILL 550 WILL CREATE A REBUTTABLE PRESUMPTION THAT EQUAL PARENTING TIME IS IN THE BEST INTEREST OF CHILDREN AFTER SEPARATION OF PARENTS. PROVISIONS IN THE BILL CALL FOR:

- EQUAL PARENTING TIME WITH BOTH PARENTS WHEN BOTH PARENTS ARE FIT AND WILLING.
- ASSURE CHILDREN HAVE CONTACT WITH BOTH PARENTS THAT HAVE BEEN SHOWN TO ACT IN THEIR BEST INTERESTS.
- ENCOURAGE PARENTS TO SHARE IN BOTH THE RIGHTS AND RESPONSIBILITIES OF RAISING THEIR CHILDREN.
- ENCOURAGE SEPARATED PARENTS TO DEVELOP THEIR OWN PARENTING PLAN THROUGH MEDIATION.
- EXPAND DISCRETION OF PARENTS AND COURTS IN DEVELOPING APPROPRIATE PARENTING PLAN.

# BEST INTEREST AND SAFETY OF CHILDREN

SENATE BILL 550 INCLUDES CONSIDERATION FOR THE SAFETY AND WELLBEING OF CHILDREN INVOLVED IN PARENTAL SEPARATION.

- EQUAL PARENTING TIME PRESUMPTION APPLIES TO PARENTS WHO ARE ABLE TO SHOW THEY ARE FIT AND CAPABLE TO ACT IN THE BEST INTEREST OF THEIR CHILDREN.
- THE CHILDREN'S SAFETY ARE OF THE UTMOST IMPORTANCE WHEN CONSIDERING PARENTING TIME AND CUSTODY ARRANGEMENTS.
- ENCOURAGES CO-PARENTING BY LIMITING THE COMPETITION ASSOCIATED WITH THE CURRENT "WINNER TAKES ALL" APPROACH TO CUSTODY DISPUTES.
- SB 550 DOES NOT MAKE IT EASIER FOR AN ABUSIVE OR NEGLIGENT PARENT TO OBTAIN OR RETAIN ACCESS TO THE CHILDREN THAT MAY PLACE THEM IN HARM'S WAY.

# LONG OVERDUE

OUR CURRENT LAWS FORCE LOCAL COURTS TO DECIDE ON A PRIMARY CUSTODIAL PARENT IN THE EVENT THE TWO PARENTS CANNOT AGREE TO A PARENTING PLAN, RELEGATING THE DECIDED NON-CUSTODIAL PARENT TO OFTEN SEVERE LIMITATIONS ON PARENTING TIME, SIMPLY BECAUSE THE OTHER PARTY WOULD NOT AGREE. SO, WHEN A PARENT WISHES TO MAINTAIN THEIR EQUITABLE ROLE IN RAISING THEIR CHILDREN, AS IS OFTEN THE CASE BEFORE SEPARATION, UNDER CURRENT LAWS, THEY OFTEN LOSE ACCESS AND THE RIGHTS OF A PARENT SIMPLY FOR REQUESTING THAT EQUALITY. THIS BILL IS IMPORTANT; BECAUSE IT PRESUMES THAT EQUITABLE PARENTING TIME WITH BOTH PARENTS IS IN THE BEST INTEREST OF OUR CHILDREN, A STATEMENT THAT IS BACKED UP, AND CONTINUES TO GARNER SUPPORT BY PEER REVIEWED STUDIES, PSYCHOLOGISTS AND SOCIAL WORKERS ACROSS THE UNITED STATES.