



Nicole L. Deering
Brittany A. Berkey
Patricia A. Arjun

Annan F. Stephens
Jennifer Kristiansen

March 2, 2021

Oregon Legislature
House Judiciary Committee on Civil Law
Attn: Committee Chair
900 Court St. NE
Salem, Oregon 97301
[Submitted Electronically](#)

Dear Committee Chair:

I am writing to express my strong objection to the passage of House Bill 2948, which would allow trial judges the discretion to award joint legal custody over the objection of one parent. I am an Oregon attorney who has limited my practice exclusively to family law matters for the last seventeen years. I represent an equal number of mothers and fathers and the vast majority of my clients qualify as having “high-conflict” co-parenting relationships. My position on HB 2948 is informed by this experience and my work on the ground helping clients navigate these turbulent waters.

HB 2948 would represent a significant change in the law. In its current form, it is my opinion that the law change would absolutely undermine parents’ ability to shelter their children from the toxic and traumatic impact of parental conflict and would therefore be contrary to children’s best interests. Joint custody as a concept requires high level communication and well-honed conflict resolution and problem-solving skills. The parents in family court are very often navigating complicated post-divorce (or separation) obstacles and as a result, are often limited in their abilities to productively and appropriately resolve parenting disagreements. Ongoing inter-parent conflict is stressful, harmful and a distraction to a parent’s ability to parent at the highest level. It of course goes without saying that children suffer when their parents are unable to effectively communicate with one another. In those circumstances, for the hundreds of “high conflict” parents I have worked with in my career, joint custody and the shared decision making that it requires, ends up putting more pressure on kids and families as they struggle to find a solution when they have reached stalemate.

Simply put, there are many, many families that require a unilateral decisionmaker to break the tie when there is a dispute about a child’s education, medical and mental health care, and religion. While it is aspirational to believe that *all* coparents will be able to figure these things out, my experience is that this is just not true. I have seen parents who have argued for years and never agreed where to pick up and drop off their child, or which parent should be responsible for

DEERING | BERKEY | ARJUN

1140 SW 11th Avenue, Suite 100 | Portland, Oregon 97205
P: 503.488.5696 | F: 971.256.4184 | www.DBMAlaw.com

Written Testimony

3/2/2021

Page 2 of 2

haircuts, or whether a child should be enrolled in soccer or art lessons. Imagine then a child on the cusp of high school and their parents can't agree on which district to enroll them in. Or a kid who breaks her arm and gets a cast at the ER but now needs surgery and the parents can't decide on which surgeon should perform the procedure. Or a suicidal child who needs an immediate mental health care but one parent doesn't believe in therapy. These issues and many, many more like them have come up in my practice. While some people may believe that imposing joint custody is a solution, it will most certainly bring many more problems for children and families in Oregon.

If I can answer any other questions or respond to concerns, I would be happy to make myself available. Thank you for your consideration.

Sincerely,

DBMA Family Law Group, PC



Brittany A. Berkey