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Public Hearing before the Senate Judiciary Committee
February 7th, 2023
Senate Bill 313

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

On behalf of the Oregon Law Center, please accept this testimony in opposition to SB 313, which proposes to amend the ORS 107.137 factors determining custody and parenting time of a minor child in family law proceedings to require deference to the wishes of the minor child. Passage of this bill as drafted would have a significant negative impact on children and families before the Court.

The Oregon Law Center (OLC) is a state-wide non-profit law firm whose mission is to achieve justice for low-income communities of Oregon by providing a full range of the highest quality civil legal services. Approximately a third of our cases involve a contested family law issue connected to violence or abuse. Involving minor children as decision-makers in high conflict family matters would be detrimental to the psychological health and well-being of children and of the family unit.

SB 313 would require that a Court, in determining custody and parenting time of a minor child 14 years of age or older, give the child the right to determine outcomes, so long as the child is sufficiently mature and the best interests of the child do not outweigh the child's choice. The bill also directs the court to give considerable weight to the preferences of a child under the age 14 if the child is sufficiently mature.

This bill proposes to put children squarely in the middle of a dispute between parents, and burdens children with the responsibility of making determinations that will impact the entire family. Choices about where to live, and about which parent should make school, medical, or other major decisions, are adult responsibilities that require careful consideration and that have lasting consequences. When parents are unable to agree on these decisions themselves, our current statutes provide a set of well-considered criteria and factors that a Court can use to substitute the Court's judgment for the parents.

SB 313 is out of step with research and studies that have shown that the teen brain is underdeveloped. We know that the prefrontal cortex, responsible for skills like planning, prioritizing, and controlling impulses, is one of the last areas of the brain to develop. Myriad studies have shown that teens are more likely to engage in risky behaviors without considering the potential results of their decisions. Children in this stage of development are more likely to make rash decisions, and less likely to be able to assess their long-term best interests.

In addition, children whose parents are separating often feel anxiety, guilt, fear, and other emotions related to the separation. Giving children the choice of custody and parenting time arrangements puts them in the middle of a conflict, in a situation where they may be deeply concerned about hurting one parent or the other. If there has been violence or abuse in the family, these emotions can all be exacerbated, and giving the choice to a minor child in that circumstance could give rise to real safety concerns.

While child preferences in custody and parenting time proceedings can be relevant factors to consider, they ought not to be given authority. Our current law provides ample opportunity for child preferences to be considered when appropriate, without burdening children with the responsibility of choosing one parent over the other. For these reasons, we urge the committee not to move forward with this bill. Thank you for the opportunity to submit testimony.