

**PROPONENT TESTIMONY - HB508**

**TESTIMONY OF Phil Creed**

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**CIVIL JUSTICE COMMITTEE**

**OHIO HOUSE OF REPRESENTATIVES, 134TH GENERAL ASSEMBLY**

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Chairman Hillyer, Vice Chair Grendell, Ranking Member Galonski and members of the House Civil Justice Committee, thank you for the opportunity to provide proponent testimony on HB508.

My name is Phil Creed and I'm the father of two daughters in Stark County. Like many people present at today's hearing, I went through a marital dissolution. My ex-wife and I agreed to a shared parenting plan that calls for roughly equal parenting time. The proceedings were amicable, all aspects of our parenting plan were quickly ironed out, and we settled quickly without incurring crushing legal bills.

My ex-wife and I quickly set aside our differences and worked together as a team for the most important job either of us will ever have, that of being parents.

I enjoy every minute with my children. But I often asked myself over the years why I was so lucky to be an equal part of my children's lives when there were so many good parents that were relegated to a diminished, every-other-weekend presence in their children's lives through no fault of their own.

Parents like us can mutually agree to any parenting schedule they feel is best for their children upon separating. But if the parents CANNOT agree, a court must then intervene and determine custody based on the "best interest of the child", a revered but poorly defined principle. Ohio law spells out the factors involved in determining it in Ohio Revised Code 3109.04 but offers no guidance on how to weigh these factors.

In addition, Ohio law requires Domestic Relations Courts to have standard parenting schedules as a "fallback" position, but these vary county-by-county. How can the default position of the court say the "best interest of the child" is served if every-other-weekend is the norm in one county and 50/50 is the presumption in the neighboring county? Wildly disparate and arbitrary rulings can spring out of very similar cases depending on what side of the county line the parents are on.

Law that capriciously allows for fit, willing and able parents to be needlessly sidelined from their children's lives create large numbers of single-parent households. Many single parents do an admirable

job, but a single-parent upbringing is far from ideal and public policy should be called on to prevent it if possible.

The rates of every socioeconomic malady one can think of are greatly augmented for those raised in single-parent households vs. those of intact families or shared parenting arrangements. If Problems 2, 3, 4, 5, 6, etc.; stem from Problem 1, why not proactively address Problem? This is what HB 508 will do. By keeping two loving parents in a child's life, the child will have better long-term prospects.

HB 508 is needed to address the inconsistent treatment in Ohio's Domestic Relations Courts. HB 508 is based on the last several decades of research which point to one inescapable conclusion—that the best interest of the children is served by two loving parents being equally involved in their lives. And to that end, HB 508 would standardize the presumption for fit, willing and able parents at 50/50 for all counties.

HB 508 will NOT, as some opponents suggest, *mandate* 50/50; the parents can still agree to asymmetric parenting times if they so choose. Nor is it anymore “cookie cutter” than the lopsided standard parenting schedules that are all too often implemented in most Ohio counties today. All that changes is the starting point for fit parents.

A word is in order on the determination of a fit parent. HB 508 also sets the standard of evidence for abuse, neglect or domestic violence at “clear and convincing”. To see why HB 508 calls for this, consider what happens if two separate government functions bring forth an allegation of child abuse or neglect. Children's services must show by “clear and convincing evidence” that a child is being abused or neglected, per Ohio Revised Code 2151.35.

But in family court, the much lower “preponderance of evidence” standard is used instead. “Preponderance of evidence” simply means a court deems it more likely than not an assertion is true, even if they can only ascribe a 51% probability. In effect, a glorified hunch, often with no evidence to hint for or against the accusation.

The high possibility of an inaccurate—or false—allegation along with virtually nonexistent prosecutions of civil perjury makes this a tried-and-true method for wresting custody from an innocent parent. It is an open secret in legal circles and is often referred to as, “the sliver bullet” custody strategy, and it doesn't just affect innocent parents. Innocence or guilt are both harder to find in the tall grass of a low burden of proof.

Some will say that HB 508 is about the parents' rights, not the children's rights. But the best interest of the children is simply not served by denying their parents to do their most important job without just cause. The U.S. Supreme Court reaffirmed this principle in its 2000 *Troxel v. Granville* decision, which read in part, **“the interest of parents in the care, custody and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court.”**

This does not suggest that the state has NO compelling interest in children's wellbeing, but HB 508 simply aligns the core finding of the *Troxel* decision with that of Ohio's Domestic Relations Courts-- that parents should be assumed to be acting in their children's best interests unless shown otherwise. If

there is no good reason to remove a fit parent from a child's life, it simply shouldn't be done.

My children won't have to worry about being raised in a single-parent household. Contrary to many opponents of shared parenting legislation, they easily adjusted to shared parenting and do not, "live out of a suitcase" or "lack the stability of a primary residence". Both have homes where they are well-provided for, without want or need of any essentials, for the past seven years and counting. They don't have a "real home" and an "auxiliary home"; they simply have two homes. And they don't have a "real parent" and an adult with "visitation"; they have two loving parents.

Much has been made about unearned "privilege" in discussions of social justice, but few mention that privilege of having two parents. My children have the privilege of two loving parents equally in their lives. And in the words of former UK Prime Minister David Cameron, "I am not here to defend privilege. I am here to spread it."

If given a choice, Americans will choose to light a candle than curse the darkness. With 35% of children raised in single-parent households, the state of the American family is dark. But a vote in favor of HB508 will help bring the dawn.

Mr. Chairman and members of the committee, thank you again for allowing me to provide testimony on HB 508. I would be happy to answer any questions.

--Phil Creed