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13 March 2023

Representative Jean Schmidt
Chairwoman, Families and Aging Committee

Subject: Written Testimony regarding HB 14; Children Need Both Parents

Chairwoman Schmidt, and Committee,

Thank you for the opportunity to be heard on this matter. I am Brent Burnfield, resident of Auglaize County and father to two amazing children, and a Captain in the United States Army with 17 years active duty. I speak on behalf of myself and many others in Auglaize County, when I say that Ohio needs change when it comes to handling child custody. I will share my story and some details from others I have the opportunity to hear from in my community. It is abundantly clear that children do best with unrestricted access to both parents. I pray that we have the courage to do what is right.

In 2017 my ex-wife decided to file for a dissolution of our marriage. Reluctantly, I agreed. Being active duty, and on my way to assignment at Fort Campbell, KY, equal custody was not feasible. For the three years that I was assigned in Kentucky, I traveled to Ohio to see my children 3 weekends per month. This was a very difficult time for me and often made more difficult due to a vengeful ex. There are numerous flaws in my county's "local rules" that give the custodial parent power to negatively impact the visiting parent.

In 2020, I was fortunate to receive the assignment to the Columbus Military Entrance Processing Station (MEPS). I reside in Wapakoneta and commute to Columbus, nearly a 1.5 hr commute every day in order for me to have near equal parenting time with my children. As soon as I knew I was transferring to Ohio, I sought equal custody. It took nearly one year and \$10,000 in lawyer fees for me to get slightly less than equal time with my children. I have a clean record and am very active in the lives of my children.

The lawyers and the judges commended my dedication to my children during my case, but it still took a fight. The opposing counsel tried to argue that my schedule would not allow me to be home in time to care for my children. On a late day, I get home around 6pm, but usually around 5-5:30. This is not an uncommon time for a parent to arrive home after work. In a severe misunderstanding of military service, they also tried to argue that I might be "activated" to deploy as if I were some Reserve or National Guard Soldier standing ready for a worldwide mission. It was also argued that this assignment would only be for three years, so custody would need to change again after that time. I guess the logic was to that they should just award sole custody because equal custody might not be feasible at a point in the future. My ex and her attorney grasped at whatever they could in order to try to keep me a weekend visitor to my children.

I was completely ignorant to the system until I went through out. Unfortunately, I trusted that my lawyer knew what they were doing. My attorney incorrectly filed my motion for equal custody, so I was left working at a "compromise" as the judge would not even consider equal custody, because my attorney did not file my plan correctly. So, in the best outcome I could get, I was coerced to drop the numerous instances of contempt against my ex for her malicious behavior over the previous few years. Her alienating and abusive behaviors were not properly addressed, I was left with less than equal time and a large credit balance for attorney fees.

If someone with a completely clean record, willing to drive hundreds of miles daily, and very active in the lives of his children has such difficulty; what is it like for others? Instead of evidence-based accusations on how I would be a detriment to my children, the opposing counsel tried to use circumstances to try to convince a judge that the best option would be sole custody. It is a nightmare for anyone that has to go through it. The smallest past mistakes, a work schedule, available resources, or any other miniscule detail could be used in attempt to restrict access to your own children. Some parents even face false allegations, which adds a new level of evil into child custody cases. What I am saying is that it should not be so difficult for a parent to maintain their parental rights and it should not be so easy for one parent to restrict the rights of the other parent. Children deserve to maintain both of their parents after a separation.

One father that I spoke with on this issue was reduced to a non-custodial visitor to his children simply because he did not know to file a parenting plan. The judge stated that he could not award equal custody because there was not a filed parenting plan for it. Rather than doing what everyone knew was in the best for the child, the judge chose the standard visitation. The father did not have the resources to hire an attorney, while his ex was represented by free services designated to help women. Sometimes in this situation, you hear things like "ignorance is no excuse for the law." But this father did not break any laws. He was just unfamiliar with a complicated legal system that was stacked against him. This legislation would allow judges to make the right decision in cases like these. Visitation should never be a default, especially when you have a parent that has done nothing to deserve taking their parental rights.

Many also conflate advocating for equal parenting as a father's rights movement. I can understand coming to that conclusion as many fathers are the ones harmed by the current system, but I know many women that have also been devastated by the family courts. As mentioned in my story, opposing attorney's will often attempt to exploit anything that they can in order to justify sole custody. This often turns into a competition on who is the better parent or a mud slinging contest to paint the other as a bad person/parent. Perhaps a person made an error in their past. Should a past mistake be held over a parent for the rest of their life? Should a work schedule be used as a basis to keep a child away from that parent. There are many factors that lawyers can come up with to win for their client. Too many times the system is weaponized to harm one parent. In the current system, a judge does not even have to justify

their decision. This makes it nearly impossible to appeal. Maybe the decision was made based on some sort of obstacle that can be overcome. Once that obstacle is removed, a parent could prove that equal custody should be implemented. When a child is removed from a parent and placed in the foster system, there is often conditions given to a parent to reunite the child. In domestic relations, it seems to be that we remove access to a parent and don't allow for any opportunity for reunification.

I started Auglaize County for Equal Shared Parenting (ACFESP) because of my experience, and I wanted to do something about it. I am not the type of person to walk by a problem. Although my situation was devastating enough, I know it is mild compared to many others in my own community and throughout the whole nation. In advocating for equal parenting, I regularly have people reach out to me for support. A common theme that I see in contested divorce is that as soon as lawyers and the legal system get involved, the situation gets worse. The winner take all system pits parents against each other. The more fighting and the longer the case, the higher the attorney fees. Not all lawyers, but some are incentivized into operating in a way to increase their own profits without any concern over the outcome. If attorneys told clients they would receive equal custody, unless they can prove it is detrimental to the child, you would see less "I'm the better parent" type arguments. This would shift the discussions to which type of schedule might work best for the families involved.

House Bill 14 will not miraculously fix all the wrongs, but it is a much needed legislation to improve it. I personally know so many good parents that are relegated to visitors simply because the other parent weaponized the system to harm them, and the current Ohio laws allows for it. The primary argument against equal parenting will come from domestic violence groups. To me this is a very interesting constitutional question. Rights of parents in the companionship, care, custody, and management of their children is a Supreme Court affirmed Constitutionally protected right. Do we violate the rights of good parents for the fear that someone might do something in the future? I believe that if we are going to restrict a child access to their parent, there absolutely needs to be a valid and well documented reasoning from the court.

Thank you for your time on this matter. I pray that we all have the courage to hold true to our Oath to the Constitution and to do what is right. We all know that having access to both parents is best for our children, as long as that relationship is not a detriment to the child. Please do not allow the opposition to conflate the issues and allow this injustice to continue. Our children need both parents.

Thank you,


Brent Burnfield

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