



Opponent Testimony on House Bill 14
Ohio House Families & Aging Committee
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Chairwoman Schmidt, Vice Chair Miller, Ranking Member Denson, and Members of the House Families and Aging Committee, thank you for the opportunity to provide opponent testimony regarding House Bill 14. As Ohio's federally-designated statewide sexual violence coalition, the Ohio Alliance to End Sexual Violence (OAESV) advocates for comprehensive responses and rape crisis services for survivors and empowers communities to prevent sexual violence.

House Bill 14 proposes several changes to Ohio's custody laws by prioritizing shared decision-making and parenting time as the central consideration in determining what is in the best interest of a child. There are situations where shared parenting is the best case for certain children and their families, and many children benefit from having consistent access to more than one adult caregiver. Sharing custody of a child is not inherently harmful and can work well in certain situations; particularly those in which families self-opt into shared parenting agreements, with little conflict, no history of violence, and where both parents collaboratively commit and demonstrate an ability to work together.¹

A presumption of shared parenting in all cases will cause more harm than good for Ohio's children and families. Put simply, the presumption supplants the child from the central focus in custody cases, instead placing the parents' interests ahead of the best interests of the child – the most vulnerable party. The presumption of equal parenting time indiscriminately elevates the rights of parents – even abusive parents – over the safety and well-being of the children. It will permit courts to reach conclusions about the well-being of the child until proven otherwise, which is a dangerous assumption in cases where any violence or harm is occurring to the child or in the child's environment.

It would also create further inequities in our legal system, favoring petitioners who have sufficient resources to navigate the legal system. We are concerned that this bill will result in increased litigation costs and petitioners will be focused on trying to demonstrate why the other parent does not deserve shared custody, regardless of whether the parties are married, whether a parent wants shared parenting and equal time, and whether paternity has even been established. The bill does not contemplate or address scenarios where one parent may be unrepresented and receive undue influence and/or pressure to enter into a shared parenting plan. Similarly, the bill does not address/contemplate scenarios where one parent exerts undue pressure, influence, or makes threats against another parent to sign a shared parenting plan.

Abusers can use a survivor's lack of knowledge or resources to exert power and reestablish control long after a relationship has ended. In fact, custody litigation is one of the most common legal processes through which abusers prolong contact with survivors.² Despite claims that the presumption for shared parenting can be rebutted if there is evidence of domestic violence and/or child abuse, reports from states with shared parenting presumptions illustrate a different picture in implementation. For example, an analysis of Wisconsin's shared parenting presumption law revealed that only 8% of custody cases had a domestic violence finding, in a sample where all cases had previous felony and misdemeanor domestic violence

¹ McIntosh, J., & Chisholm, R. (2008). Cautionary notes on the shared care of children in conflicted parental separation. *Journal of Family Studies*, 14(1), 37-52.

² Przekop, M. (2010). One more battleground: domestic violence, child custody, and the batterers' relentless pursuit of their victims through the courts. *Seattle J. Soc. Just.*, 9, 1053.

convictions prior to the initiation of a custody case.³ This analysis also found that joint custody was granted in 50% of cases where one parent had a criminal conviction for domestic violence. Numerous studies indicate that family courts frequently discount or disbelieve survivors' reports of abuse.⁴ OAESV remains concerned that House Bill 14 will produce similar results in Ohio. The bill does not provide courts with a requirement for continuing education on abuse and neglect, nor does it mandate the use of screening tools for neglect, domestic abuse, sexual violence, and coercive behavior and tactics.

Several myths and misconceptions exist in our society regarding sexual and domestic violence, leading to inaccurate figures and narratives about survivors and the rates and impact of false reporting. Methodological research demonstrates that the prevalence of false reporting of rape is about the same as it is for other felonies – between 2% and 8%. A large, multi-year study of sexual assault cases found only a 5.9% rate of false reports.⁵ Additionally, research shows that false allegations are no more common in divorce or custody disputes than any other time.⁶ The problem that is much more prevalent is the low reporting rate for survivors of abuse.⁷ It is also essential that we acknowledge that dropped charges, and unfounded or unsubstantiated claims are often confused with or mislabeled as a false allegation. Unfounded cases include those that may not meet the legal criteria for a specific crime, or there may be unsubstantiated claims that cannot provide sufficient evidence to determine whether or not a crime has occurred. Neither “unfounded” nor “unsubstantiated” mean that a crime did not occur.

One of the most concerning elements of this bill is the proposed avenue for courts to impose monetary sanctions on parents who have been found to have intentionally made a false allegation of child abuse or neglect against the other parent. Given what we know, this provision has the potential to negatively impact protective parents who may not have adequate evidence to show that abuse has occurred. Protective parents face significant barriers to keeping their children safe over the course of a custody dispute and we should seek to minimize these barriers as much as possible. Moreover, the bill does not specify what standard of proof and evidence courts will be required to use when determining whether one parent has misled the court or made false allegations against the other parent.

Sweeping changes to our family courts should take time and be informed by best practices and evidence-based research. House Bill 14 will implicate survivor safety – whether they are a survivor of rape and/or intimate partner violence forced into co-parenting with their abuser, or a child survivor of abuse forced to continue contact with an abusive parent. For these reasons, OAESV opposes House Bill 14.

Thank you for the opportunity to provide testimony on House Bill 14. In addition to my testimony, I am available for any questions from committee members via email at publicpolicy@oaesv.org.

³ Meurer, Gibart & Roach, *Domestic Abuse: Little Impact on Child Custody and Placement*, 91 Wisconsin Lawyer

(2018). <https://www.wisbar.org/NewsPublications/InsideTrack/Pages/article.aspx?Volume=91&Issue=11&ArticleID=2673>

⁴ Meier, J. S., & Dickson, S. (2017). Mapping gender: Shedding empirical light on family courts' treatment of cases involving abuse and alienation. *Law & Ineq.*, 35, 311. <https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1576&context=lawineq>

⁵ Lisak, D., Gardinier, L., Nicksa, S. C., & Cote, A. M. (2010). False allegations of sexual assault: an analysis of ten years of reported cases. *Violence against women*, 16(12), 1318–1334. <https://doi.org/10.1177/1077801210387747>

⁶ Brown, T., Frederico, M., Hewitt, L., & Sheehan, R. (2000). Revealing the existence of child abuse in the context of marital breakdown and custody and access disputes. *Child abuse & neglect*, 24(6), 849–859. [https://doi.org/10.1016/s0145-2134\(00\)00140-x](https://doi.org/10.1016/s0145-2134(00)00140-x)

⁷ Shaffer, M., & Bala, N. (2003). Wife abuse, child custody and access in Canada. *Journal of Emotional Abuse*, 3(3-4), 253-275.