



Ohio Judicial Conference

The Voice of Ohio Judges

House Families and Aging Committee

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Opponent Testimony on House Bill 14

March 21, 2023

Chair Schmidt, Vice Chair Miller, Ranking Member Denson, and members of the House Families and Aging Committee, I thank you for this opportunity to submit opponent testimony for House Bill 14 on behalf of the Ohio Judicial Conference.

I am Paul Pfeifer, Executive Director of the Ohio Judicial Conference. I testify today on behalf of the judiciary to condemn the insulting and shocking accusations against domestic relations and juvenile courts, including false claims that Ohio's courts are "ripping" children away from fit parents and denying parents of their constitutional rights. Ohio's family courts must deal with volatile and emotional disputes on a daily basis. These judges and magistrates have some of the most thankless jobs in the state. One or both parents are often left disappointed in even the most equitable outcomes because they are based on the best interest of the child, not the conflicting wishes of the parents.

The permanent termination of parental rights at the culmination of an abuse, neglect or dependency case is the most solemn outcome in family court. It does not compare to a domestic relations court determination that a sixty-forty split in parenting time is in the best interest of the child when considering the parents' work schedules and the child's school and extracurricular plans or a decision to grant decision-making authority to one parent when together the parents are incapable of rational decision-making. Our judges listen to all of the evidence and make the best decision they can for Ohio's children when their parents must end their relationship.

Other opponents will be discussing the numerous practical concerns created by the bill's complicated provisions. We wish to highlight that the bill's strictly equal parenting presumptions do not square with the real world that Ohio's family law judges encounter every day.

Additionally, the bill's application of an equal parenting presumption to unmarried parents has had little discussion in this Committee, but it is of the utmost concern to juvenile judges who worry a previously uninvolved parent would be presumed to have equal parenting time despite the lack of an existing relationship with a child. Our judges report a growing number of unmarried parenting cases as well as an increase in pro se litigants. Both populations will have great difficulty navigating the provisions of this bill to ensure a safe outcome for their children.

Furthermore, codifying a standard of "clear and convincing evidence that it is detrimental to the child" would be a dangerous experiment on Ohio's children. It is our understanding that no state focuses on "detriment" instead of best interests. The bill strays too far from Ohio's current standard toward a parental entitlement model of child custody.

While this bill does not provide rational reform, we recognize that the family court system can be improved. Several judges, magistrates, attorneys and other family law experts have been formulating a legislative proposal to build upon Ohio's child-centered process for children and families involved in the court system through statutory and rule changes.

Led by the Supreme Court of Ohio's Advisory Committee on Children & Families' Subcommittee on Family Law Reform Implementation (FLRI), the proposal has several overarching goals. One goal is that establishing and maintaining a parent-child relationship is of fundamental importance to the welfare of a child. Therefore, the relationship between a child and both parents should be fostered unless inconsistent with the child's best interest. Further, any legal process that allocates parenting functions and responsibilities should be guided by each child's best interests.

Recommendations for implementing this goal:

- Language used in the Ohio Revised Code, Ohio Rules of Civil Procedure, Ohio Rules of Juvenile Procedure, and Rules of Superintendence for the courts of Ohio should reflect that both parents have continuing roles and responsibilities as parents when they are not living together. To the furthest extent possible, terms of conflict and empowerment should be removed from Ohio statutes involving parenting issues.
- The allocation of parenting functions and responsibilities should be presented in a single document called a parenting plan, regardless of whether the terms are a result of parental agreement or judicial intervention.
- All parenting plans should provide for the allocation of parenting functions and responsibilities for all aspects of each child's daily needs consistent with the child's age and developmental level.
- Courts should be given more statutory options for dealing with the difficult problems involved in the consideration of requests by one parent to deny or limit access of the other parent to their children, or to information about their children.

To that end, a significant redrafting of Revised Code Chapter 31 has been proposed. Highlights of the changes are as follows:

- A change in terminology from "parental rights and responsibilities" to "parenting responsibilities." This change more accurately reflects that children should be treated as persons, not property (or assets) to be divided when the parents are no longer together.
- Discontinuation of labels such as "residential parent" or "custodial parent" to remove the perception that one parent may have the upper hand or more authority than the other. This was deliberate to help minimize the adversarial nature of these types of proceedings.
- All parenting responsibilities are allocated in the parenting plan, which seeks to ensure that "parents or legal custodians share in the responsibilities of raising a child and to enable a child to enjoy a meaningful relationship with both parents or legal custodians, as applicable, unless it is not in the best interest of the child."
- Allowing courts the discretion to fix a flawed shared parenting plan.
- Allowing courts to consider changes in circumstances relating to both parents, not just the "residential parent," as in current law. This would allow the courts to consider positive changes in both parents, including the maturation of previously uninvolved fathers.

Thank you for the opportunity to testify in opposition to H.B. 14. We look forward to working with the legislature to improve on Ohio's child-centric court system. I am available to answer any questions you may have.