

My name is Karen Zajkowski. Last year I retired from the Tuscarawas County Court of Common Pleas where I was a Magistrate for 21 years. For those 21 years I heard domestic relations matters. I was involved in the creation of Tuscarawas County's current standard parenting time schedule. I also testified as an interested party regarding HB 508 during the last legislative session. HB 14 is a reintroduction of HB 508. The subsequent revisions made to HB 508 changing the standard of proof from clear and convincing to preponderance of the evidence helped insure the safety of Ohio's children. In contrast, HB 14 has eliminated those protections. It is a travesty to allege that HB 14 protects Ohio's children when it removed the few protections provided by the revisions to HB 508.

I am aware that proponents of an equal parenting presumption have cited the Tuscarawas County parenting plan as a model. However, unlike HB 14, the Tuscarawas County parenting plan was based on child development research and recognizes that children's needs change as they mature. HB 14 only recognizes a parent's needs and ignores the child's needs.

Equal parenting time and equal decision making should be in place only when it is in the best interest of the child. The age and development of the child must be considered and the family's circumstances must be considered. The parenting plan that's best for a newborn is not likely to be best for a middle school aged child. There is no one size fits all solution.

HB 14 puts parent's rights above the best interest of the child. Putting a parent's needs and wants above the needs of a child is the very definition of poor parenting and cannot be condoned by the legislature. I think there's consensus that good, appropriate, nurturing parents should have substantially equal time with their child when appropriate and in the best interest of the child. However, the reality is that there are some parents who are not good, appropriate, nurturing parents yet HB 14 permits these potentially harmful parents to have equal access to their children.

CLEAR AND CONVINCING EVIDENCE

HB 14 requires that the presumption of equal time be rebutted by clear and convincing evidence. Civil cases, with few exceptions, have the standard of proof of preponderance of the evidence. The clear and convincing standard is unfairly burdensome and potentially harmful to children. Self-represented litigants may be severely prejudiced by this standard as they are less aware of the evidence they need to present. Further, the quality of evidence presented by self-represented litigants is often lacking. HB 14 should not allow a parent's lack of courtroom skills to put a child in life goal xanger.

DETRIMENT TO THE CHILD

HB 14 requires equal parenting time or equal decision making unless the presumption is rebutted by clear and convincing evidence of a detriment to the child. Detriment is defined as damage, hurt or harm. The current standard requires a court to determine what is in the best interest of the child. The best interest is defined as that which is best for the child's growth and development. HB 14 would no longer require courts to order a parenting plan that would promote the growth and development of the child. Instead, courts would be required to order a parenting plan that's barely good enough so that it doesn't harm the child. This is clearly the opposite of the desired effect but could be the reality since HB 14 removes the child centered approach to allocating parenting time.

EQUAL DECISION MAKING

Equal decision making is challenging. Requiring it in domestic and juvenile court cases is aspirational but often an unrealistic hope. Equal decision making requires good communication, respect between the parents and a willingness to compromise. Often, none of those attributes are present. Communication presumes there is an ongoing relationship between the parents. That presumption is misplaced, especially in juvenile court cases where a relationship may be nonexistent. Parents who have an order of equal decision making but are unable to agree will have to return to court for a resolution. The order that was supposed to reduce litigation will instead increase it.

When parents reach an impasse, there is the possibility that the more strong-willed parent, the more insistent or abrasive parent, or the bigger bully, will win whether or not the decision is in the best interest of the child.

TEMPORARY ORDERS

Temporary orders are issued early in a case, before either party has had the opportunity to conduct significant discovery or investigation. Courts issue temporary orders after the presentation of minimal, if any, evidence. Early in the case, the parties may not have the volume of evidence needed to rebut the presumptions of HB 14. To require equal parenting time and equal decision making in situations where there is a paucity of evidence poses an unreasonable risk to children.

RECORD KEEPING

The record keeping requirement of HB14 takes resources and staff away from a court's core mission of resolving disputes and serving families. This requirement serves no useful public benefit.

CONCLUSION

Children need regular, safe, frequent contact with good parents. However, children need to be protected from parents who can't or won't act in their children's best interest. HB 14 doesn't provide this protection.