

PROPONENT TESTIMONY – HB14

TESTIMONY OF Phil Creed

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FAMILIES AND AGING COMMITTEE

OHIO HOUSE OF REPRESENTATIVES, 135TH GENERAL ASSEMBLY

May 14, 2024

Chairperson Schmidt, Vice Chair Miller, Ranking Member Denson and members of the Families and Aging Committee, thank you for the opportunity to provide proponent testimony on HB14.

My name is Phil Creed and I'm with the Ohio chapter of National Parents Organization.

House Bill 14 is badly needed to correct the often arbitrary and capricious, yet life-altering decisions frequently passed down by Ohio's Domestic Relations Courts. The lopsided default parenting arrangements in most Ohio counties have generated countless, preventable de-facto single-parent upbringings for children that increase the rates of virtually every socio-economic malady we have a name for.

Yet the family court system and its practitioners seem either oblivious or dismissive of the unequal and capricious treatment of parents between jurisdictions or individual judges. Franklin County Judge James Brown referred to HB14 as a "misguided solution to a problem that doesn't exist", while the data clearly points to a problem. NPO released reports in 2018, 2020 and 2023 revealed a haphazard hodge-podge of standard parenting plans but the pattern is heavily skewed towards lopsided parenting plans.

Disagreeable but otherwise fit parents will invariably think along lines of "winning/losing" in 45 of Ohio's 88 counties where one parent will not have their kids overnight on a school night. These counties effectively make custody a coveted prize, allowing one parent to have effective veto power against a 50/50 arrangement with a fit, willing and able parent.

The family law industry commonly cites a 90%-settlement rate statistic but it's clear why unequal parenting arrangements relegating children to de-facto single-parent upbringings are "settled" upon. A litigant that is wealthy, obstinate—or both—can win what amounts to a war of attrition, and wildly-uneven default schedules are powerful motivators to show one is the better parent even if both parents are perfectly fit, willing and able.

All of this is to the detriment of the child whose bond with one of their parents has been needlessly corroded by antiquated family law.

Consider this--Judge Pfeifer and Lisa DeGeeter in their 2023 testimony opposing HB14 referenced the Supreme Court of Ohio's Advisory Committee on Children & Families' Subcommittee on Family Law Reform Implementation (FLRI), serving as the inspiration for their competing legislation which will amount to nothing more than window dressing of the statutes.

Yet the very 2001 FLRI task force report states on page 8 that a standard parenting order has, *"usually a 75%-25% division of access time with the children, thereby perpetuating win/lose situations between the two parents. The custodial parent wins a larger portion of the child's time, and control over most major life decisions. The other parent is reduced to a visitor, with a disproportionately smaller role in the life of his or her child. Furthermore, the existence of a single fallback plan creates a situation in which a parent who expects to be victorious in litigation has little incentive to mediate or engage in any other constructive, cooperative process to create a parenting plan."*

Bear in mind this is not that writings of an "angry dad" nor some "fathers' rights" group. This is from an Ohio Supreme Court publication written more than twenty years ago. The problem was properly diagnosed, but no solutions have been put forward. HB14 represents the policy prescription that is not only necessary, but long overdue.

Some will argue that HB14 is about the parents' rights at the expense of the hallowed, "best interest of the child", standard. The "best interest of the child" is open to wide interpretation because (1) it has no established definition, and (2) it is not a standard. A standard is an objective metric or reference; rather, ORC 3109.04 spells out factors used to *determine* the best interest of the child.

A standard cannot be determined after the fact; it is known before an evaluation is made. The "best interest of the child" is merely what a court determines after a set of listed, often intangible factors are considered, with no statutory guidance on how to *weigh* them. HB 14's opponents have argued that everything should be tried, "on a case-by-case basis", but under existing law very similar cases could have vastly different custody ruling depending solely on which judge presides over the case – or which county the case is heard in.

If one wanted to channel the spirit of Paul Harvey's famous, "If I Were The Devil", speech, and ask, "what's the best way to undermine the public's faith in the judiciary?", I wouldn't do anything differently than what Ohio's Domestic Relations Courts are doing now. The public intuitively knows wildly divergent rulings among similar cases means their relative merits are moot.

Similar cases having similar results is a bedrock judicial principle and there is no controversy with this approach in criminal proceedings when it comes to sentencing guidelines. In fact, ORC 2929.11 explicitly states the purpose of sentencing guidelines is similar sentences for similar offenses.

Ohio's Domestic Relations Courts don't keep track of the frequency of certain parenting schedules, but some data can be gleaned from other sources. ODJFS submitted their review of Ohio's child support guidelines to the Ohio General Assembly in March 2023, and in the interest of disclosure, I am currently serving on an ODJFS working group to tackle the issue of

inconsistent child support amounts in shared parenting.

Appendix B on this report contains a 9-county study of deviations from child support guideline amounts. The sampling of child support orders showed at least 74% of obligors had less than 90 overnights, or 25% parenting time and it was indeterminate if the obligor had 90+ overnights in 10% of the cases.

Appendix A includes an economic analysis from the Center for Policy Research in Denver and notes the standard parenting time orders for Montgomery and Hamilton Counties are 89 and 80 annual overnights – 24% and 22% of parenting time, respectively.

In a startling display of Orwellian doublethink, Hamilton County Local Rule 2.7 reads in part, “The absence of conflict is even more critical than the amount of time either parent spends with the child.” No thought is given to the lopsided default parenting plan being the very source of the conflict the court is tasked with resolving.

Ohio’s Domestic Relations Courts face an existential quandary, tasked with determining the child’s best interests but they themselves are simply not structured to be in the child’s best interests.

Contrast this with Tuscarawas, Holmes, Carroll, Clermont, and Ashtabula County, where both parents go in knowing that the court’s fallback plan will not effectively sideline one of them nor destine their children to a de-facto single-parent upbringing.

None of these aforementioned counties *mandate* 50/50, and neither would HB 14. The parents can agree to whatever plan they want to, just like they can today. The only difference in these counties – or throughout Ohio with the passage of HB 14 – is the fallback position by the court if both parents are fit, willing and able.

These counties have a far greater likelihood of the child enjoying what best-selling author Melissa Kearney calls, “The Two Parent Privilege”.

Children simply need both parents, and if there’s no reason to sideline a fit, willing and able parent, it shouldn’t be done. Some counties have gotten this message, but many are adjacent to counties where the fallback plan is the antiquated every-other-weekend arrangement – a de-facto single-parent upbringing and along with it all the statistical disadvantages that child will have later on life. What is the rationale for marginalizing perfectly fit parents from their children’s lives by default?

For the sake of Ohio’s children, I strongly urge passage of HB14.

Sincerely,

Phil Creed

References and Sources

Ohio Task Force on Family Law Reform Implementation 2001 report:

https://www.supremecourt.ohio.gov/docs/JCS/taskforce/report_final.pdf)

Hamilton County Domestic Relations Court Rule 2-7:

https://cdnsm5-hosted.civiclive.com/UserFiles/Servers/Server_3788196/File/Government/Courts/Court%20of%20Domestic%20Relations/Local%20Rules/2-7%20Standard%20Parenting%20Order.pdf

2023 Ohio Child Support Guidelines Advisory Council Report (submitted to the Ohio General Assembly in March 2023):

<https://dam.assets.ohio.gov/image/upload/jfs.ohio.gov/Ocs/employers/2023-Child-Support-Guidelines-Report.pdf>

Appendix A is an economic study of Ohio's child support guidelines done by the Center for Policy Research in Denver, Colorado. Page 40-41 highlights some of the wide variation in the standard parenting schedules among Ohio's 88 counties.

Appendix B is the deviation analysis of Ohio child support orders selected from 9 counties. 74% of these orders had fewer than the 90-day threshold (25% of annual overnights) threshold required to reduce the presumptive child-support amount under current Ohio law, with 10% indeterminate. Only 16% of child support orders definitely showed the lesser-time parent having at least 25% of the overnights.

2023 National Parents Organization report on standard parenting schedules in Ohio counties:

<https://www.sharedparenting.org/ohio-parenting-time-report>