

## WRITTEN OPPONENT TESTIMONY

### Senate Bill 174 (As Amended)

#### Submitted to the Ohio Senate Judiciary Committee

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**Name:** David R. Ayers

**Email:** [Davidroyengineer@gmail.com](mailto:Davidroyengineer@gmail.com)

**Address:** 18269 Sugar Creek Rd. Bowling Green, OH 43402

**Phone Number:** (419) 266-3240

Chairman Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee,

Thank you for the opportunity to present this written opposition testimony to Senate Bill 174, as amended. While I appreciate the efforts to modernize Ohio's family law and acknowledge the recent amendments that have improved some areas of the bill, I remain firmly **opposed** to its overall structure and implications. SB 174, even as amended, continues to undermine the constitutional rights of parents and **children**, expands judicial discretion without adequate safeguards, and lacks the narrowly tailored approach required when interfering with fundamental liberties.

### Recognition of Compelling State Interest

I acknowledge the State of Ohio's compelling interest in protecting children and ensuring their safety and wellbeing. Courts play a vital role when a child is in danger, neglected, or abused. However, when the state interferes in the decisions of fit parents, it must meet the **strict scrutiny standard** outlined by the U.S. Supreme Court. This means any infringement on parental and **child's** rights must be:

1. In service of a compelling governmental interest (which is met),
2. **Narrowly tailored** to address that interest,
3. And use the **least restrictive means** available (*Washington v. Glucksberg*, *Troxel v. Granville*, *Meyer v. Nebraska*).

SB 174 fails to meet the second and third prongs of that test.

### Constitutional Concerns

#### U.S. Constitution – Fourteenth Amendment

The Supreme Court has repeatedly held that **the right of fit parents to make decisions about their children is a fundamental liberty interest** (*Troxel v. Granville*, 530 U.S. 57 (2000)). SB 174

rewrites this fundamental right as a privilege subject to court allocation. This invites unnecessary government interference even when both parents are fit; in agreement and in agreement with the child.

Further, the bill:

- Allows courts to override joint parenting plans,
- Permits restrictions based on a **preponderance of the evidence** standard rather than the required **clear and convincing** threshold,
- Fails to demonstrate that judicial intervention is the **least restrictive means** of protecting children.

### **U.S. Constitution – First Amendment**

SB 174 also threatens **First Amendment rights** by enabling the state to:

- Dictate when and how a parent communicates with their child and vice versa,
- Limit association based on subjective “fear” without factual evidence,
- Impose constraints on parental values, speech, and expression.

In *Roberts v. Jaycees* and *Meyer v. Nebraska*, the Court made clear that parental association and belief-sharing are protected liberties. SB 174's structure undermines these.

### **Ohio Constitution – Article I, Section 1**

Ohio courts have affirmed that the **right to parent is fundamental** and must be protected under Article I of our state Constitution. In *In re C.R.* (2006), the Ohio Supreme Court recognized these rights as fundamental. SB 174 does not meet the Ohio Constitution’s standard of “due course of law” before infringing on these rights.

### **Amendments Deserving Praise**

I want to commend the committee for the amendments adopted on **November 29, 2025**, that reflect progress:

- **Written Findings Requirement:** Courts must now issue written findings to deny equal parenting time—an important step toward transparency and accountability.
- **New Best-Interest Factor:** Acknowledging parental noncompliance with previous orders helps deter interference and promotes fairness.
- **Paternity Language Update:** Replacing the term “putative father” with “person seeking to establish a parent-child relationship” is a more respectful and modern approach.

These changes are appreciated, but they do not correct the bill's structural flaws that continue to place courts above the constitutionally protected rights of parents and children.

### **Recommendations and Legislative Alternatives**

To comply with constitutional protections and promote child wellbeing more effectively, I respectfully urge you to:

- Amend SB 174 to include a **rebuttable presumption of equal parenting time** for fit parents,
- Require **clear and convincing evidence** before any parenting time restriction,
- Limit judicial authority to override parent-agreed plans unless **harm is demonstrated**,
- Incorporate protections from **HB 256 and HB 550**, which offer stronger safeguards for unmarried fathers and enforcement of court-ordered parenting time.

### **Legislators' Oath**

Members of this committee and the General Assembly have sworn an oath to **uphold both the U.S. and Ohio Constitutions**. That includes the duty to:

- Protect parental and children's rights as fundamental liberties,
- Demand that legislation infringing on such rights be the **least restrictive means** to serve a compelling interest,
- Ensure due process is observed when regulating family life.

SB 174, even as amended, does not meet these obligations.

### **Conclusion**

SB 174 continues to allow undue government interference in the lives of fit families, lacks proper evidentiary safeguards, and redefines parental and children's rights as state-assigned roles. I respectfully ask this committee to either substantially amend this bill or vote NO on its passage in its current form.

Thank you for your time and for your service to Ohio's families.

Respectfully submitted,

**David R. Ayers**

Parent