

## PROPONENT TESTIMONY - HB508

### TESTIMONY OF David Roy Ayers

Parent

#### CIVIL JUSTICE COMMITTEE

#### OHIO HOUSE OF REPRESENTATIVES, 134TH GENERAL ASSEMBLY

**MARCH 8, 2022**

Chairman Hillyer, Vice Chair Grendell, Ranking Member Galonski and members of the House Civil Justice Committee, thank you for the opportunity to provide proponent testimony on HB508.

I am David Ayers from Bowling Green, Ohio.

I'm here under the most Nobel title someone can receive and that is the title of parent. This title imposes great responsibility on the one that carries it. This title also gains rights, liberties and protections from the hands of the State. Protection of these rights and liberties is something significantly lacking in our current laws and the reason why many parents are here today. Specifically, because of the importance of this issue, I am missing my one dinner a week with my children tonight in order to attend this hearing. Therefore, please do not let this be in vain.

The current guides in the law trump fundamental rights, privacy rights while circumventing due process. I believe all of us want the "best interest of the child". However, the debate isn't the "best interest of the child" but who legally determines the "best interest of the child". Our nation has a long-standing history that the parent has this right over any state actor.

Therefore, when the "best interest of the child" is whispered by a Judge it shouldn't be a magical word that trumps a fit parents' rights and creates a "winning" parent and a "losing" parent. However, this is how it is treated today. The state provides no guides, books or directions when making best decisions of the child and therefore the state has no authority to hold an individual to a standard that doesn't exist. Doing what is best is a personal private decision that belongs to the fit parents. Therefore, these are fundamental rights to be protected by the State.

Secondly, the United States Supreme Court has made abundantly clear that courts may not impose their value judgements as a replacement for due process even with state legislative authorization, Graham v. Richardson, 403 US 1449, 1450 (Supreme Court 1971), ("What the Constitution says is that" value

judgements “are for the individual to make, not for the Government to decree, even with the mandate or approval of a majority.) If this state can violate fundamental constitutional rights based on its viewpoint of a children’s best interest, what is to stop it from violating those rights based on “racial bigotry, why not ‘by reason of’ opposition to abortion, war, or any other political or moral viewpoint?”

Opponents to this bill may state that equal shared parenting puts children at harm and an increase the chances of abuse. However, our State currently has child abuse laws. These current laws are the correct path to take where criminal charges can be filed, a trial can be held and proper punishment can be determined. However, children are currently being punished just because their parents are not together and their First amendment association right to be with both fit parents are being violated. In addition, these “American” children are not receiving the same Equal Protection treatment as other children that their parents are still together.

The constitution is there for the expressed purpose of limiting government. Therefore, according to our founders, we should be more afraid of trusting government than fit parents. Current Ohio law implies that parents don’t know what is best for the child and that the government does which is taking away our freedoms. The constitution is a code of beliefs that puts boundaries on government in order to protect its citizens. This freedom has been bought with a price, many people have fought and died for it. And is what bringing people here from all over the world. They want to experience our freedom and make life determining choices for themselves and their children.

Judge Powell states (10<sup>th</sup> Appeals District) (Cottrell v Cottrell 2014):

\*1023 ¶ 75} I fear that a parent's right to the care, custody, and control of his or her children will continually be eroded until it becomes an archaic fossil and there will be very little, if any, significance or weight given to a fit parent's desire to maintain visitation and participate in the upbringing of his or her child. The erosion of this right is apparent when looking at several Ohio appellate decisions which have gone beyond the boundaries established by the United States Supreme Court and the Ohio Supreme Court by ruling that it is permissible to cut off the nonresidential parent's protected parental interest when (1) the child is mature enough to decide not to have a relationship with the nonresidential parent, (2) the child independently and affirmatively states his or her desires not to have contact with the nonresidential parent,<sup>[7]</sup> and (3) where enforcing visitation would serve no useful purpose.<sup>[8]</sup> The majority and the trial court have carved out yet another circumstance justifying the denial of a fit nonresidential parent's right to have visitation with his or her child, i.e., where the parent's methodology is questionable when implementing sound life principles.<sup>[9]</sup> The problem parents now face in contested visitation cases is trying to guess which methodologies are going to be state approved and which methodologies are going to be "questionable," justifying a restriction on this constitutionally protected parental interest.

Furthermore, a fit parent’s religious beliefs are the core intimacies they share with their children. Something as simple as praying before meals, praying before bedtime, reading the child bedtime stories and answering random questions is why a parent’s equal time is so important. If you don’t have that time with the child, the parent can’t share the values and beliefs on those questions. Children learn from observation and they learn better from what they see you do in day-to-day life rather than what you say. If children don’t have equal time with each fit parent, they can’t carry their views and beliefs into the future.

In conclusion, parenting is a fundamental right that both parents have and those rights are not dependent on the marriage or relationship with the other parent and it is undeniably in the children's best interest for this State to strictly protect the fundamental rights of the children to associate equally with each fit parent.

Mr. Chairman and members of the committee, thank you again for allowing me to provide testimony on HB 508. I would be happy to answer any questions.