

**AMERICAN ACADEMY OF MATRIMONIAL LAWYERS**

**OHIO CHAPTER**

HOUSE CIVIL JUSTICE COMMITTEE

CORRINE HOOVER SIX

OPPONENT TESTIMONY ON HOUSE BILL 508

MAY 24, 2022

Chair Hillyear, Vice Chair Grendell, Ranking Member Galonski and Members of the House Civil Justice Committee. On behalf of the Ohio Chapter of the American Academy of Matrimonial Lawyers I want to thank you for this opportunity to submit opponent testimony for HB 508.

Who is the Ohio Chapter of the American Academy of Matrimonial Lawyers?

WE are an association of forty plus lawyers located throughout Ohio. With rare exception we are OSBA specialists in family law. Members have all had at least 10 years of experience and in some instances over fifty. Collectively we have literally handled thousands of family law cases. Unanimously we agree that the bill, as now drafted, will not only be grossly unfair to pro se litigants who lack the resources and legal talent to present legally sufficient credible evidence to rebut presumptions, but will lead to MORE, and expensive not less litigation for the following reasons:

1. Since the presumptions apply to temporary orders as well as final orders, there will be more Civil Rule 75 hearings seeking to modify the temporary orders. Temporary Orders are Orders issued by the Court to govern the conduct of the parents while a divorce or parentage case is pending.
2. Once parents have resolved the issue of parental rights either parent under certain circumstances may seek a review of Orders involving the allocation of parental rights. There will be an increase in post judgment motions to modify existing orders as parents will believe they can increase parenting time or decision making rights, simply because a presumption exists that can only be rebutted by a showing that it would be "detrimental" to the child to apply it. To prove "detrimental" one would be required to employ an expert such as a custody evaluator. Those engagements average between \$10,000 and \$20,000. Because of the shortage of such experts and the extent of the required assessments in order to issue a report, proceedings may be substantially
3. The use of alternative dispute resolutions, such as mediation, will be lessened because of the advantage in litigation provided to a party by the existence of presumptions.
4. Parents may use the threat of insisting on equal parenting time and decision making in negotiations to attempt to minimize or eliminate child support.
5. Equal decision making, without clarity as to who may make or have the final say so with respect to particular issues, will lead to many more post judgment proceedings requiring courts to make those decisions. It is hard to believe that parents who are divorcing or

who were never married can all of a sudden agree on important decisions in a child's life.

6. The bill as now drafted uses terms which are undefined, subject to judicial interpretation, which, without doubt will lead to more Appellate reviews. Currently there are 12 Appellate Districts in Ohio and arguably each appellate district could adopt its own interpretation of any of the various undefined terms of House Bill 508. Only decisions of the Ohio Supreme Court are binding on all trial and appellate courts. The decision of one appellate district is not binding on any of the other 12 appellate decision and therefore there could be a situation that there would be 12 different appellate decisions regarding these undefined terms. Because the appellate process is long and costly it could be many years before undefined terms such as detrimental, disruptive and non-disruptive parent, non-cooperative and most cooperative parent are finally resolved by the Ohio Supreme Court. Undefined terms include detrimental, disruptive and non-disruptive parent, non-cooperative and most cooperative parent. Also troubling is the rebuttal factor of "totally incapable of supporting or caring for the child" The courts will be required to interpret what that means.

The Ohio Chapter of the American Academy of Matrimonial Lawyers believes that Instead of constricting a court to apply a presumption which may be totally inappropriate, but unrebutted, because of a party's inability to do so, our elected judges should not be stripped of their discretion to determine what is in the best interests of children in determining parenting time and decision making. Instead of presumptions, perhaps the bill should contain a provision that in making such orders the court should, when in the best interests of the children, provide for shared decision making, and maximize their respective parenting time.

Thank you for the opportunity to testify in opposition to House Bill 508. The Fellows of the Ohio Chapter of the American Academy of Matrimonial look forward to working with this committee on further improvements to the bill. I am available to answer any questions which you may have. Thank you.