

Opponent Testimony – House Bill 508

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Chairman Hillyer, Vice Chair Grendell, Ranking Member Crossman and Members of the House Civil Justice Committee: Thank you for the opportunity to provide opponent testimony on House Bill 508.

My name is Robin Tener. I have a Ph.D. in Clinical Psychology from the University of Detroit and I have been a Licensed Psychologist for the past 34 years. Early in my career, I made the decision to work with children, adolescents, parents and families. Many of the children and families who came to me for assistance were involved with the Juvenile, Family and/or Domestic Relations Courts. The severity of the dysfunction and conflict that was present within these complex family situations required intervention from the Court. The Court was charged with the duty of making sure that the best interests of the children remained at the forefront, despite the turmoil that was present between adult caregivers.

Because I am very familiar with the experiences of children whose families require intervention from the Court due to the severity of their problems, I am deeply concerned about the impact of House Bill 508. I believe that even the most emotionally troubled and self-focused parents maintain an important attachment to their children. Unfortunately, parents who demonstrate

significant emotional and behavioral concerns are often unaware of how profoundly their children are impacted by poor decisions and negative patterns of behavior that often include the parent's unwillingness to acknowledge his or her role in perpetuating chaos and conflict.

When parental functioning is compromised, the children's needs are very often secondary to the competitive interests demonstrated by one or both of their parents. Children in these family situations must rely on the Court to make it clear to their parents that the *children's* needs and the *children's* best interests are paramount as the Court makes decisions regarding custody and companionship. Children must depend on the Court to carefully consider the risks that may be presented to them by exposure to adverse parent behaviors and they need the Court to take protective action when it is warranted. Children need the Court to direct a troubled parent to obtain intervention so that the children can benefit from a relationship with an emotionally healthy caregiver and can feel safe, secure, and protected.

Research tells us that about 90% of child custody cases are resolved without the need for significant Court intervention (1, 2). Strategies such as Mediation, the involvement of Guardians ad Litem and the use of Parenting Coordination assist many families toward the goal of reaching an agreement and avoiding Court involvement in decision-making regarding custody and companionship arrangements. Families employ a variety of creative companionship time scheduling arrangements, including parenting time that progresses in scope according to the developmental age of the child. Courts are inclined to endorse custody and companionship arrangements that are reached by parental agreement. This is far preferable to litigation that increases parental animosity and promotes additional conflict as one parent is perceived as "the winner" and the other parent is "the loser."

However, because 90% percent of families reach some type of resolution on their own, what remains are the 10% of families and children who require a great deal of attention and careful consideration from the Court. These families demonstrate multiple problems that affect the children. Research indicates that 75% of child custody/companionship cases that are litigated involve allegations of Domestic Violence (3). Other serious concerns that are presented in cases that come before the Court include parental substance use and mental health difficulties as well as other parent behaviors that place children at significant risk.

By making a presumption regarding equal parenting time, House Bill 508 makes the erroneous assumption that all caregivers demonstrate a uniform set of strengths and capabilities that provide children with safety and security during parenting time. Unfortunately, this is not always true. A "one size fits all" approach to parenting time disregards the complexity that is present within the often-chaotic family situations that require intervention from the Court. House Bill 508 makes the assumption that *all* parents recognize and respond to their children's needs and it assumes that *all* parents are capable of managing their children's needs. Yet, this is often not the case within the very problematic family situations that require the Court's attention. Instead of permitting the Court to consider a multitude of important factors that are presented in each unique family situation as parenting plans are constructed, House Bill 508

assumes that equal parenting time will be a safe and appropriate plan for children in every family situation that is presented to the Court.

House Bill 508 requires the Court to consider not only a preponderance of evidence before the presumption can be refuted, but the Court must also determine whether problematic situations that may be presented to the child are actually *detrimental* to the child. The meaning of the word “detrimental” is not delineated in House Bill 508. But the Merriam-Webster dictionary definition of detrimental is “damaging, obviously harmful.” House Bill 508 requires the Court to consider if children are actually being harmed before the Court is able to provide the protection that some children urgently need.

The research regarding the impact of children’s exposure to domestic violence and parental dysfunction is more than compelling (4, 5). I would ask the House Civil Justice Committee to consider whether it is more appropriate to address a child’s exposure to situations that we know negatively affect children – such as exposure to Domestic Violence (3) – *before* the child is deeply and irrevocably affected by this exposure, and *before* the child is directly harmed.

Moreover, by advocating equal parenting time regardless of the developmental needs of the child, House Bill 508 *treats all children as if their needs are exactly the same*. Common sense tells us that the developmental needs of a newborn are very different from those of a Middle School-age child. Children need different things from parents as they grow and mature. Under the current law, the Court is able to consider the age of the child, pertinent family circumstances and other variables as it devises a parenting time plan that will serve the best interests of the child. The Best Interest standard was implemented due to the fact that Domestic Relations Courts in Ohio recognize the enormous impact of parental separation on children. The current law is *child-focused*, and the Best Interest standard reflects the fact that the State of Ohio recognizes that children need and benefit from the love and support they receive from both of their parents. In my view, House Bill 508 represents a backward step via its focus on *parent* desires and *parent* rights.

House Bill 508 might have mandated that Courts employ customized parenting time models while emphasizing the need for steps to be actively taken toward the goal of equalized parenting time. House Bill 508 might have advocated parenting time plans that expand as the child grows older, with equal parenting time the eventual outcome if the child’s best interests are served by such a plan. House Bill 508 might have conveyed recognition of the fact that a child’s safety may be compromised in certain family situations, and it might have advocated the child’s need for protection under such circumstances. Unfortunately, these elements are missing from House Bill 508. In my opinion, House Bill 508 does not address the needs of the children and families who will be most affected by it.

Although I oppose House Bill 508 for the reasons I have discussed, I want to make it clear that House Bill 508 is accurate in its assertion that equal access to the strengths and assets of both parents is beneficial for children. Children benefit from regular involvement with caregivers to

whom they are attached and who can provide them with experiences that enhance their social and emotional development. Parenting time arrangements that provide a child with equal access to both parents can - and do - work effectively for many children and families. Families who may have initially disagreed have developed equal parenting time plans after the Court used its discretion and encouraged parents to come to such an agreement. When problematic functioning makes it impossible for a parent to take an equivalent role in parenting their children, the Court has the ability to order intervention that can help a parent to actively move toward that goal.

I am not a researcher. Nevertheless, I utilize research findings to inform my clinical practice. Good research documents the contraindications that must be recognized so that research results are correctly interpreted and accurately applied (6). This disclosure includes the characteristics of the research sample and the limitations that may be presented by this factor. Discussion of the implications of research findings includes questions that still need to be answered.

My own study of the research on parenting time suggests that this topic has been investigated with a variety of emphases. For example, it is not surprising that equal parenting time and decision-making works quite well for parents who get along with one another and who have adequate resources. But I question the application of research findings when the sample does not include parents who demonstrate significant dysfunction, or when the quality of the parent-child relationship is not measured or even considered as an important factor. In fact, even one of the most vocal proponents of equal parenting time acknowledged limitations within her research findings and made the contraindications clear. These included the children's exposure to abuse, neglect, and abusive parenting (7). Still other parenting-time researchers have emphasized the importance of parent caregiving on life-long parent-child relationships but have presented a strong argument for developmentally-sensitive resolutions for parenting time plans that are developed for young children, in particular (8).

I must emphasize that divorcing parents who demonstrate mutual respect, flexibility, the ability to compromise and the capacity to communicate necessary data about the child have the skills necessary to avoid ongoing conflict. These parents reach conclusions about how to work together effectively and they have the ability to place their children's needs ahead of their own desires. However, divorcing parents who demonstrate these qualities are very different from those who are embroiled in the extremely challenging family situations that the Court is compelled to address.

In summary, I urge the House Civil Justice Committee to consider the potential impact of House Bill 508 on all of the children who will be affected by it. The Court needs to retain the capacity to carefully consider each unique family situation and address the children's best interests without overwhelming barriers.

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

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