



**House Families and Aging Committee
Judge Brad Smith
Opponent Testimony on House Bill 14
May 14, 2024**

Chair Schmidt, Vice Chair Miller, Ranking Member Denson, and members of the House Civil Justice Committee, I thank you for this opportunity to submit opponent testimony for House Bill 14 on behalf of the Ohio Association of Juvenile Court Judges.

I am Judge Brad Smith of the Sandusky County Juvenile & Probate Court, where I have served since 2009. I am the current President of the Ohio Association of Juvenile Court Judges. Prior to being elected Judge I had a private law practice, and previously have served as a Sandusky County Commissioner, Assistant City Law Director/Prosecutor, and a Fremont City Councilman.

The juvenile judges continue to review Substitute H.B. 14. We thank the sponsors for the changes from the as-introduced version of the bill, especially the switch to a preponderance of the evidence standard of review. However, the substitute bill does not address most of our concerns and continues to stray too far from Ohio's current best interest of the child standard, toward a parental entitlement model of child custody.

We respectfully oppose the substitute bill for the reasons outlined below:

Unmarried Parents

Much of the debate on this bill has focused on divorce cases. When married parents separate, domestic relations courts try to maintain the family status quo to lessen the impact on the children. Juvenile courts see a wide range of custody cases involving unmarried parents. Some parents live like spouses for years before breaking up. Other cases involve a parent who has had little or no relationship with the child. The bill's presumption of equal parenting responsibilities and equal parenting time would also fully apply in these cases involving unmarried parents. The presumption would even apply to temporary initial orders, before paternity has even been established. This is especially concerning to juvenile judges who see an increasing number of cases involving unmarried parties where one parent has no parenting record or relationship with their children. If this bill passes, parents who have had little to no contact with their children will be presumed to receive equivalent parental decision-making and equal parenting time as a sole-caregiving parent.

Detrimental to the Child Standard

While current law focuses on the best interest of the children, Sub. H.B. 14 requires equal decision making and equal parenting time unless the preponderance of the evidence shows that equal parenting would be detrimental to the child. As a preliminary matter, we are unaware of any state that utilizes a detriment standard in place of a best interest standard. Nor are we aware how courts will implement the undefined new standard, which will essentially require courts and litigants to prove a negative. While the bill maintains the best interest factors, a court cannot consider them until detriment to the child is proven. This will require courts to utilize additional guardians ad litem and call expert witnesses on “detriment,” increasing litigation costs. The complicated presumptions in this bill will be confusing for attorneys and unworkable for the self-represented litigants so frequently seen in juvenile courts.

Unfunded Data Collection Requirement

The bill would also create a costly new R.C. 3109.0486 that requires courts to track ordered overnights for an annual report. We are unaware of any court management system in place in any Ohio court that allows tracking of overnights and the countless variables necessary to clarify and provide this data. This unfunded mandate will only serve to distract the courts from their mission of resolving disputes and serving their constituents. Courts would need to hire additional employees to meet the tracking and reporting requirements within this unfunded mandate. Additionally, this provision perpetuates the fallacy that overnights are an appropriate measure of custody cases, and ignores the realities of cases involving child abuse, drug addiction, domestic violence and sex offenses, where a court may properly order limited or no parenting time to the harmful parent.

Thank you for the opportunity to offer testimony in opposition to H.B. 14. We as an Association look forward to working with this Committee on further improvements to the bill, and I would happily make myself available to answer any questions any of you may have now or moving forward.