



*The Kansas District Judges' Association*



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Senate Judiciary Committee

Testimony in Opposition to SB 257

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Executive Board member of Kansas District Judges Association

Chairman Wilborn and members of the committee, thank you for the opportunity to appear today on behalf of the Kansas District Judges Association to testify in opposition of Senate Bill 257. My name is Wayne Lampson and I am the Chief Judge of the 29<sup>th</sup> Judicial District (Wyandotte County). This bill creates, in custody and parenting time cases, a presumption that both parents will have equal parenting time. While District Judges throughout the state have expressed NO opposition to having equal time as an option for consideration in custody matters, it is the mandating of the use of that option, and the requirements needed to overcome this presumption that is of concern, and thus causes me, on behalf of the KDJA, to urge the Legislature not to adopt this legislation in the present form. This position is based on the following observations:

1. This proposed legislation removes from consideration the child's/children's best interests in custody matters, as the mandate to order shared custody overrides. While the bill notes that the Court can find otherwise, but only if the factors noted in K.S.A. 23-3203 overcome the presumption by "clear and convincing" evidence. In my opinion this clearly limits and restricts the Court in the full consideration of the noted factors.
2. The bill, as written, does not address when the mandated shared custody becomes effective. It is unclear if it applies to temporary custody orders, or only to the permanent custody orders. This creates considerable potential for litigation and issues, as many times it is best to place the child in the most stable place, until the parents work through issues which can allow the shared custody order to have a chance of working.
3. There is no evidence that the current statutory procedures are not working. While I am aware that it is the opinion of some, it has been my experience, and that of other judges in Kansas, that in those situations where the factors suggest shared custody, that the same is being considered. Current child support guidelines and the provisions of K.S.A. 23-3204 address the issue and provide protocol where parents can be highly cooperative and communicate well. Mandating judges to make this the presumption in all or most cases would interfere with the discretion of judges to evaluate the co-parenting abilities of the parents.
4. This legislation and the implementation of this custody presumption will result in an increase in litigation in these cases, resulting in considerable increase of costs to the litigants, and a drain on the resources of the courts.
5. Final observation, that the legislature, in K.S.A. 23-3203 addressed a wide variety of factors. To now put "shared custody" as the one factor that overrides could put the children of Kansas in many situations that are not in their best interest.

The State of Arizona spent several years in study of this issue, and when drafting the new statute were careful in the wording, promoting equal parenting while requiring judges to weigh traditional children's best

interest factors, that disqualify the other parent. The statute states that “consistent with the children’s best interests, the court shall adopt a parenting plan that maximizes the parent’s respective parenting time.” If this committee chooses to go forward with this legislation, it is my request that the wording of the statute be patterned after that of Arizona and not as proposed.

Thank you for allowing me to testify today and for your consideration of this position. I'm happy to answer any questions you may have.

Respectfully Submitted,

R. Wayne Lampson