

Testimony of Ron Holm
Proponent of Senate Bill 157
To: House Judiciary Committee
March 9, 2020



Chairman Patton and members of the Committee,

The Kansas Family Preservation Coalition (KFPC) was founded to serve Kansas by promoting a properly informed approach to the process in which separating families form and develop their parenting plans and co-parenting skills. In our work we strive to provide unique perspective, and creative solutions to the professionals, volunteers, and families engaged in these difficult and trying processes.

We feel strongly the common sense idea of a presumption of equality affords children a legally defined right to equally receive love from both parents, sheltering them from the anger, animosity, and conflict sadly present in such tragic circumstances, and restricts the practice of unilaterally tearing children from a loving parent. **We are certain when parents have an expectation their co-parent is equally valuable, respond in a much more child focused manner.** Even a few Kansas Judges who assume a child should have equal access to each parent find the approach profoundly and positively effects the agreements parents reach. We are here today because in many courtrooms that is not the presumption, and this drives fear and conflict.

When equality is presumed both parents and attorneys more often refocus to seek solutions to the challenges of a separated family instead of defaulting to the acrimonious practice of, amongst all variety of personal bias, trying to be awarded a "winner" in a high stakes, standardized, "cookie cutter" every other weekend parenting time order which controls the lives of the vast majority of children with separated parents. The kids are losing when a parent's insistence on misguided perceptions of victory instead of cooperation is rewarded, and **the need for this legislative change stems from our legal systems long history of reliance on this adversarial approach.**

We have concerns about the domestic abuse related amendment added in the Senate Judiciary Committee. We think it fails to properly address the serious needs and the realities of both the victims and perpetrators of domestic abuse, and even creates to open of a path for malicious abuse of the intent of the legislation by parents focused on their own desires, and not always focused necessarily the long term best interest of the children. Children are often abusively weaponized against one of their own parents and we believe the specific language added to SB157 could promote that abuse.

To improve the protections for families against abuse during times of such heightened emotion and turmoil we would recommend the following changes and additions to SB157.

- A requirement of the court to provide **written findings of fact and conclusion of law** if deviating from equal parenting time. This is notably absent from SB157 and is a CRITICAL piece of any legislation passed in any state which has had successful equal parenting reforms including but not limited to both Arizona and Kentucky.
- **Require a "pattern of abuse" or a "Significant history of domestic violence" before completely taking equal parenting time off the table.** Adding the domestic abuse exception to equal parenting times as it is in SB157 seems overly broad and we fear could quite easily become a weapon of an abusive spouse making false claims against their victim,
- **Allow Judges to impose Sanctions against false allegations and false denials.** We have heard many times from Judges that parents who would never lie or make false statement in any other aspect of their lives will exaggerate and present one falsehood after another in

family court. We also believe if you are denying claims of abuse the court should readily have the tools to take corrective action. We expect the courts would welcome this addition.

- We would offer it seems more appropriate to **move the necessary Domestic Abuse Amendments to K.S.A. (2019) 23-3203** and reference from K.S.A. 23-3211 that all 17 factors in K.S.A 23-3203 are to be considered when creating temporary orders. It is equally important to consider whether the child may be living with a registered sex offender as to consider one possible act of "abuse" as loosely defined by statute and case law.
- **The Domestic abuse amendment maybe to quickly overcomes an existing preference in Kansas for joint legal custody, and defaults to SOLE custody. We think this needlessly limits a judge's discretion in a variety of possible circumstances.** A possible incident of abuse that may warrant something other than equal parenting time, but not require giving one parent SOLE legal custody. Upon ordering SOLE custody, the courts are required to offer "on the record specific findings of fact." At this time, it remains unclear if this requirement for findings of fact would also apply in in circumstance in which domestic abuse presumption that equal time and joint custody is not in the child's best interest.
- **We would ask to Exempt or provide further direction in the Domestic Abuse presumption in Mutually abusive situations.** Many abusive situations are mutually abusive, and MAY NOT involve the children unless parents are given the authority to control the others access to the children. Statutorily in this sadly common situation, requiring the court to pick a de facto primary aggressor and award all the power to the other almost ALWAYS results in an escalation of emotional and/or physical violence. KFPC picks up the pieces of these messes every single day. We believe Judges need to retain discretion in this area as they find solutions which afford the children in these tough situations as much access familial safety networks, and not automatically require such restrictions.
- **Set forth a path to recover parenting time following a good cause finding of Domestic violence or abuse with batterer or other intervention programs.** With the way the SB157 is presently drafted a good cause finding of very loosely defined "domestic abuse" could essentially mean the end of a meaningful relationship with your children. There is no clearly defined path forward to regaining these vital relationships. We just leave people who might already be inclined to be angry, or even those falsely accused in hopeless situations without a defined path to redemption or recovery. Nothing could be more important than the parent child relationship, and we have a duty if such is restricted to make certain the opportunity to have the relationship remains open for all who are willing to genuinely work put in the work to recover from bad choices and habits. The hopeless situations experienced by many of these parents does get injury to all of us.
- Remove the "**Fit, willing and able**" language from the equal parenting time presumption. It is unnecessary and opens several possible loopholes which could circumvent the intent of the legislature.
- At some point the KFPC would like to see the word "**custody**" **struck from parenting time statutes entirely and replaced with "Legal decision making and parenting time"**. These are children parents are seeking to build plans for, they are not prisoners or possessions. Words matter.

If you have any questions it would be my privilege to address them.

Sincerely,

Ron Holm