



## SB 174

*Nicknamed "The Judge's Bill"*

- Removes the words "*parental rights*" and replaces them with "*parental responsibilities*" throughout the code --- parents have responsibilities NOT rights, according to the Judges. The court must appoint a "*designated parent*" to have legal custody. The switch to the use of "*designated parent*" from the current use of residential with cause problems with taxes for school districts and a major conflict with the language other states use.
- Offers no guidance for courts on where to begin. No presumptions--just like now. Courts retain the ability to decide what they think is the "best" scenario for children. Language changes in 3109.03 negate the policy that the current law has.
- Gives courts "*complete discretion*" over all parenting plans -- which means total power to do what they "feel is best" no matter what. Even if parents agree! (p164 lines 4851-2)
- Within the section on courts there are major inconsistencies between counties. In some counties only a judge (not magistrates as a currently used) will be able to hear a custody case.
- Courts aren't just "approving" plans that parents submit, they get to "issue" one of their own if they want (p160, line 4740) -- again maximizing their authority.
- They tried to sneak in Arizona's language for parenting time but with a caveat of "best interest" ... so parenting plans should "maximize parenting time with both parents" but ONLY WHEN the court feels it's in the child's best interest (p160, line 4746)

- Adds even more factors to consider without guidance on what to DO with those factors. So courts must apply their personal biases and opinions to even more factors. (page 168-169)
- Requires courts to create a plan specific to the child's age and developmental stage -- so this will effectively codify the Tender Years Doctrine which was debunked ages ago. (page 160, line 4749). All children develop at a different rate and this would require a parenting plan that tries to take that into consideration which is impossible.
- Courts can *deny a joint request by both parents for "substantially equal time"* if the court thinks it's "best" (page 163, line 4817), but they will have to at least provide findings for their decision.
- Creates additional "best interest" factors, including a parent's "past performance" and parents' work schedules related to the child's schedule. This allows courts to give preference to a stay-at-home mom over a working dad, for instance--simply because the dad has a job.
- They have new criteria for determining if a parent is "unsuitable" to parent and explicitly state that they must only apply the preponderance of evidence (the lowest standard there is) when deciding if a parent is unsuitable. Factors include "abandonment" and "detrimental" (page 165, lines 4869). This is a huge opportunity to cut out a loving parent for "abandonment" because the court blames them instead of the alienator who kept a child away. The whole criteria for who is "unsuitable" is *subjective* with a very low standard of evidence.
- Mothers remain the sole custodian of babies born out of wedlock (page 167, lines 4944) Never married fathers cannot file for custody or visitation with their child.
- A person being "fearful of harm," under preponderance of evidence, is a specified reason to restrict a parent's responsibilities or time with their children. This undoes the false allegations clauses they added because it's impossible to disprove "fear.." So we're writing into code that a mere claim of "fear" is enough to restrict a parent's rights and time. (Lines 5058, 5048-5051, 5187, 5192) This is already being done through ex-parte protection orders, but this codifies the silver bullet legal maneuver. This is an attempt to confuse civil restraining orders with criminal restraining orders.
- The courts can deny all contact with a child to protect the other parent from domestic violence - with the same criteria of preponderance of the evidence and the expressed "fear" of the other parent. (page 176, line 5189)
- At any point during the open case, the court can order a multitude of investigations and evaluations at the parents' expense. (Page 172) What for? To investigate a parent's "character, past conduct, family relations, etc."

- In Children's Services Case the evidentiary standard is reduced from clear and convincing to discretion.
- There are conflicts with FERPA (Federal Education Rights of the Parent Act) and conflicts with current law.
- Set military rights during deployment back to before the past updates in 2012.
- Allows total strangers to file for custody of a child.
- Does not address the multitude of problems that exist with GALs in the state or allow the use of CASAs.
- Does not address guardianship of the disabled.
- There are 417 pages here while our proposed bill is 70 pages and saves money.