



**KANSAS BAR
ASSOCIATION**

TO: The Honorable Richard Wilborn, Chair
And Members of the Senate Judiciary Committee

FROM: Ronald Nelson
On behalf of the Kansas Bar Association

RE: SB 257 – Creating the presumption of child’s equal time with parents during court determinations of legal custody, residency and parenting time.

DATE: January 30, 2018

Chairman Wilborn and Members of the Senate Judiciary Committee,

I am Ronald Nelson and I appear on behalf of the Kansas Bar Association to provide this testimony in **OPPOSITION** to SB 257, creating the presumption of child’s equal time with parents during court determinations of legal custody, residency and parenting time.

I am a family law attorney in Johnson County. I’ve practiced family law for over 25 years. My practice is focused on complex issues in family law and high conflict child custody litigation. My practice frequently involves representing parents – and grandparents – in family law disputes at the trial court level and in the appellate courts. Over my now many years in family law, I’ve often wrestled with the difficult issues that arise when parents fight over their children’s care and custody – both in court and out-of-court.

The KBA opposes SB 257 for several reasons:

First, the bill provides parents with the presumption of 50/50 parenting time. This legal presumption of shared custody is not based on relevant factors specific to the individual case. It binds the hands of the court and forces the court to only consider altering the changes when “clear and convincing” evidence is presented.

Second, studies have shown that 50/50 parenting time may not be in the best interest of the child. I have attached information by William Eddy, “Thoughts on Shared Parenting Presumptions” discussing 50/50 custody issues.

Third, SB 257 imposes a higher evidentiary standard of “clear and convincing”. Currently parents must persuade the court by using the preponderance of the evidence standard, which is to say it is more likely than not that his or her plan is in the best interest of the child. However, SB 257 imposes a stricter standard of “clear and convincing” which means a court might be forced to impose a less than ideal parenting plan because the evidence did not rise to the higher standard. This could result in plans not in the best interest of the child.

These are just three examples of issues with SB 257 that we used in this short summary of our opposition, however, the implications of this bill are far reaching. It will touch on one of the most sacred parental duties, child rearing. We should not alter long standing policy, disenfranchise the underrepresented and tie the hands of court by codifying this proposal. The KBA strongly OPPOSES passage of SB 257.

On behalf of the Kansas Bar Association, thank you for your time

About the Kansas Bar Association:

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals. Its more than 7,200 members include lawyers, judges, law students, and paralegals. www.ksbar.org