

Divorcing parents would get equal time with kids by default under Kansas bill

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Divorcing parents who don't agree on custody would share time with children equally by default – unless a court finds clear evidence that they shouldn't – under a Kansas bill.

Similar measures are cropping up in states across the country as part of a push to promote involvement by fathers and co-parenting.

Proponents say the measures are better for children. They point to research

showing benefits for children raised by two parents. But critics contend creating a presumption of equal time discourages parents from reaching their own agreement.

The Kansas measure, Senate Bill 257, was filed before the legislative session by Sen. Steve Fitzgerald, a Leavenworth Republican who is running for Congress. Will Mitchell, chair of the Kansas chapter of the National Parents Organization –which promotes the involvement of both parents – has been spearheading promotion of the bill.

Mitchell, a Holton teacher and father of two, went through custody proceedings two years ago and left with less than equal time with his children.

"I was brokenhearted walking out of that courtroom. I couldn't understand someone who had never committed a crime in his life, was a veteran, was a youth minister, was a teacher – someone the government trusts with their children as far as the school setting – yet with my own children I'm still not counted as equal," Mitchell said.

Mitchell said his story is familiar to thousands of Kansas parents and millions nationwide. He contends judges aren't ordering equal time for parents.

The bill is common sense, he said.

"Two parents should be equally involved in their kids' lives," Mitchell said.

But the bill encourages manipulative and dysfunctional parents to use the presumption of equal time to exert power over weaker parents to the detriment of children, said Ron Nelson, an Overland Park family law attorney.

The bill would also discourage parents from working together to come to an agreement, he contends. His reasoning : A parent who wants equal time has

less cause to work with the other parent because if they don't agree, a judge must presume that they will receive equal time.

"Why would a parent work with and agree with the other parent on something other than an equal or near-equal parenting schedule" if the court is likely to split parenting time equally otherwise, Nelson said.

The bill would likely increase the number of disputed cases going to judges and would lead to more high-conflict and expensive child custody disputes, he said.

"This is a bad bill. It is bad for children and it is bad for families. It encourages dysfunction and encourages lack of cooperation between parents," Nelson said.

Domestic violence awareness groups and women's groups have raised concerns about shared parenting legislation.

The Florida chapter of the National Organization for Women [last year](#) opposed a bill in Florida that would have encouraged shared parenting and changed the state's alimony laws.

"Another egregious injustice in the bill is the attempt to force 50/50 timesharing on all families regardless of the circumstances...The individual needs of the family and child should be the leading consideration by judges when deciding custody, not a generic formula that puts the child's welfare at risk," the organization said in a statement at the time.

Fitzgerald's bill does not address child support.

More than 20 states have considered shared parenting legislation, though Senate Bill 257 appears to be the first introduced in Kansas in the past few years. Missouri recently adopted a law encouraging shared parenting.

The number of cases in which a mother is granted sole custody has been declining for years.

A [study](#) published in 2014 of Wisconsin court records found that between 1988 and 2008, the percentage of mothers granted sole physical custody fell from 80 percent to 74 percent. Meanwhile, the percentage of parents sharing custody doubled from 7 percent to 14 percent.

"What we believe we see is a prejudice in favor of the mother, which is understandable. But we feel that it's inappropriate. If it ever were appropriate, it's no longer appropriate," Fitzgerald said. "We believe that the child is best served with maximum exposure to both parents, so that's the intent. It's for the good of the child."

The legislation may find bipartisan support: Sen. David Haley, D-Kansas City, said he's inclined to back it.

A hearing in the Senate Judiciary Committee is set for Tuesday.

