

Official Written Testimony
In Support of 2018 SB257
Parenting Time; Presumption in Court Determinations

Senate Committee on Judiciary
January 30, 2018, 10:30AM, Room 346-S

Brian J. Mull
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Dear Chairman Wilborn and Members of the Committee,

Thank you for the opportunity to provide my testimony in support of SB257. My name is Brian Mull. I'm an engineer from Wichita. I'm also a Kansas Child Support Guidelines Advisory Committee member. The information contained herein is in reference to 2018 SB257 (shared parenting time). I would testify in person on this bill, but my work schedule will not allow.

My understanding in conversation with supporters of this bill is there is a level of concern surrounding the effects of SB257 on parents receiving public assistance and child support. Both topics are quite broad and I couldn't begin to cover either comprehensively here, but I'll try to provide the points I feel are most important for your consideration of SB257.

Custody in Kansas

- Kansas, per 23-3206 of K.S.A., recognizes two forms of legal custody; a) joint legal custody, b) sole legal custody.
- Kansas, per 23-3207 of K.S.A., recognizes three forms of residency; a) residency, b) divided residency; c) non-parental residency.
- Parents commonly have joint legal custody and residential/non-residential physical residency or shared (50/50) residency.

Child Support

- "Domestic Gross Income", for purposes of calculating child support, includes income from all sources, including public assistance, whether cash or in-kind.¹
- Any reduction in public assistance received by a parent would result in a decrease in the child support income used to calculate the child support obligation.
- Reduction in child support income results in an increase in the opposing parent's child support obligation.
- Child support for shared residential families typically uses one of two options; a.) shared direct expenses, or b.) the Equal Parenting Time formula (EPT), which assigns one parent as the payor of all direct expenses and adjusts child support equitably between the parents.

The shared direct expense method has been used in Kansas since 1994.² The EPT formula was introduced by the committee as an alternative formula in 2012.³

- In my view, shared residency child support models have been fully vetted and tested.
- The Court always has discretion in setting child support obligations. If he/she feels the order is unjust, the "Overall Financial Condition" adjustment may be used.

¹ Kansas Child Support Guidelines, 2016 SC Administrative Order 287

² Kansas Child Support Guidelines, 1994 SC Administrative Order 90.

³ Kansas Child Support Guidelines, 2012 SC Administrative Order 261.

Public Assistance

- Three of the five DCF objectives for the Temporary Assistance for Needy Families (TANF) program are: strengthen families, safely reduce the number of children in care, and promote employment.⁴
- Public assistance and eligibility rules for public assistance change frequently. Information that may have been valid only a few years ago may be invalid for 2018.
- There many forms of public assistance to consider. Falling under part 1 of the 2017 TANF, there are 28 different forms of assistance. It's hard to believe a low income family wouldn't qualify for at least partial assistance under one of the 28 programs.⁴
- Income seems to be the primary qualifier for most public assistance programs - not parenting time.
- TANF cash assistance is meant to be temporary. It is only available to a family for 24 months.⁴
- TANF has a specific table to be used for "Shared Living Arrangements."
- The DCF publishes an annual report of public assistance rendered to families in the fiscal year.⁵ I analyzed the FY 2017 report to determine that the vast majority (84%, \$324M) of the assistance rendered to families is Supplemental Nutritional Assistance Program (SNAP) (See Appendix A). If you are going to study a particular program to ascertain the implications of SB257, you should review the SNAP program.
- Section 4211 of the Kansas Economic and Employment Services Manual (KEESM)⁶ sets out specific guidelines for shared residential parents receiving SNAP benefits. The procedure is as follows:
 1. The parent with greater parenting time receives the benefit. Or,
 2. The parents voluntarily designate which parent receives the benefit. Or,
 3. The parent who files for benefits first receives the benefit.
- Section E of the the KEESM application form⁷ does not request information about the amount of parenting time. If parenting time were a qualification factor, that information should be collected.
- The USDA school lunch program specifically addresses shared residency as well.⁸ Their procedure is to simply use the family unit who would receive the greatest benefit.
- All other forms of public assistance I've researched either specifically address parents with shared residency, or they do not use it as a qualifier at all.
- None of the public assistance programs I've researched prescribe a reduction of benefits. Generally the benefit is to be maximized. The family who receives the assistance is the only determination to be made.

Other Considerations

- Indirect expenses in the home, such as utilities, food, fuel, laundry soap, home repairs, etc. would all fluctuate in direct correlation with a child's residency in a home.
- Shared residency gives both parents equal opportunity to find and sustain employment.
- Any reduction in the state's effort to collect child support, is a positive. Parents who are involved with their children are more likely to pay their court-ordered child support.⁹
- Parental involvement in parenting has evolved over the past three decades to promote much more involvement of both parents. Kansas laws need that same evolution.

⁴ Temporary Assistance for Needy Families State Plan, October 1, 2017.

⁵ Kansas Department for Children and Families, Public Assistance Report, State Fiscal Year 2017

⁶ Kansas Economic and Employment Services Manual, section 4211 "Included Members."

⁷ KEESM form ES-3100, Rev. 10-17

⁸ [https://www.fns.usda.gov/school-meals/faqs#How are cases of joint custody treated?](https://www.fns.usda.gov/school-meals/faqs#How%20are%20cases%20of%20joint%20custody%20treated?)

⁹ Mandel, S., & Sharlin, S. A. (2006). The non-custodial father: His involvement in his children's lives and the connection between his role and the ex-wife's, child's and fathers' perception of that role. Journal of Divorce and Remarriage, 45 (1-2), 79-95.

Conclusion

From the brief research I've done on public assistance, I've concluded that public assistance programs indeed consider shared residency and none of the programs disqualify a parent because they have shared residency. In fact, the benefits appear to remain essentially the same. A reduction in public assistance, would be reflected as a reduction in income. Reduction in income generally results in a slight increase in child support award. Child support is most likely to be paid by parents who are involved in their children's lives.

I hope this information proves useful in your consideration of SB257. In my past 18 years of talking with families of divorce and seeing how children are made to essentially choose a parent, I feel SB257 has been needed for a long time. I believe the presumption of shared residency as the standard is vitally important to our children. **Please support SB257.**

Thank you for your time and consideration.
Sincerely,



Brian J. Mull

Appendix A

