



# The Ohio Children's Parental Involvement Act

## “Statement of Constitutional Compliance”

Presented by The National Organization for Parental Equality (NOPE)

An initial presumption of custodial equality protects *the best interest of a child in maintaining a relationship with BOTH parents* in times of family and emotional upheaval. A presumption of custodial equality provides **no incentive** to *manipulate* perceptions by using children as leverage in a divorce or parentage action.

Under the current adversary system in Ohio domestic and juvenile courts, one parent **is set up to fail** when one parent refuses to acquiesce to the demands of the other. Often one parent has *no alternative* but to defend their parental rights under Ohio's adversarial judicial system.

The “Ohio Children's Parental Involvement Act” takes the adversary *out of* adversarial divorce.

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**Importantly**, the proposed legislation insures **Constitutional compliance** with federal law.

Parental rights are fundamental (federal) rights protected under the U.S. Constitution. Parental rights encompass the right to an association with their children (1<sup>st</sup> Amendment), the right to due process (14<sup>th</sup> Amendment), the right to equal protection where both parties are similarly situated (14<sup>th</sup> Amendment), and the right to an autonomous (privacy) and reciprocal relationship with their children (9<sup>th</sup> Amendment). The child also maintains associational rights to a relationship with each parent.

The State of Ohio is required to comply with federal law under the Supremacy Clause of the U.S. Constitution (Article VI). There is an implied presumption that a parent is suitably fit under Ohio law.

Current Ohio custody law (domestic and juvenile) does not comply with federal law and violates *all* of the federal rights described above. How? The domestic relations court has unbridled discretion to designate a custodial parent and at the same time designate the non-custodial parent, the current practice in Ohio.

Immediately upon designation, the judge's order infringes upon, and violates, all of the federal parental rights of the now-designated non-custodial parent, who prior to this designation was similarly situated to the now-designated custodial parent. The state court's designation violates the equal protection clause by removing the non-custodial

parent's federal rights and denying legal custody of the children under state order. The non-custodial parent is restricted from federal parental rights previously protected without a finding of unsuitability (unfit, unwilling, & unable) *by any evidentiary standard*. The invidious denial of a federal right is not permitted under the U.S. Constitution.

A parent either has the right to a custodial relationship with their children *or* the state must prove by clear & convincing evidence (the highest civil evidentiary standard) that the now designated non-custodial parent is unsuitable. Current Ohio custody law fails to require *any* due process protections required under federal law. Current Ohio practice is judicial discretion, by the submission of affidavits and without an oral hearing to confront and cross-examine witnesses, *and* without a finding of parental unsuitability by any evidentiary standard.

The state's blatant infringement of the non-custodial parent's federal rights is not in the best interests of Ohio's children where the child's relationship with that parent deteriorates upon designation. The non-custodial designation comes with a provision for the bare *minimum* local rule "visitation/companionship" with their children furthering the children's estrangement from one parent. Further, local visitation rules are rarely, if ever, enforced by Ohio courts and are not uniform in Ohio's 88 counties.

A presumption of equality where both parents are similarly-situated is required under the equal protection clause. Ohio's children will benefit from a presumption of equal physical custody maximizing the child's relationship with each parent. Legal custody of the child will reside with the parent in possession of the child and transfer upon exchange. School placement will remain at the state court's discretion. The child maintains a relationship with *both* parents.

The child's best interests are not protected under current Ohio custody law.

The child's relationship with each parent is *in the best interests* of Ohio's children.

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**There is no logical explanation why resolving family matters must be to the detriment of the child's relationship with either parent or the child's extended family.** Ohio domestic judges cannot provide *any* plausible explanation for the direct destruction of the child's relationship with a parent who desires to remain an integral part of their child's life.

*Incidentally, and an important benefit, a presumption of custodial equality is the ONLY solution where grandparents have no legal rights to see their grandchildren under Ohio law.*

Dissolving a marital contract between parents does not mean that one parent has an entitlement over the other parent *and* to the exclusion of a child's meaningful relationship with BOTH parents.

**The National Organization for Parental Equality (NOPE)** has successfully introduced the very 1st presumptive equal custody bill (The Ohio Children's Parental Involvement Act) in the United States.

This legislation is so-forward thinking that the immediate results, stemming from the 50%+ divorce rate and staggering number of single family parent homes, will: *reduce* family living expenses; *reduce* counseling costs, mental health, & educational costs; *reform* associated costs required to achieve a divorce; *significantly reduce* the need for judicial resources which are admittedly stretched to the maximum under the current failed system; reduce (and eventually *will eliminate*) court delays, attorney costs, guardian ad litem appointments, custody evaluation costs, and many non-essential costs taxed in a divorce and parentage actions.

The far-reaching impact of **SB 144 and HB 253** will *reduce* poverty, *reduce* crime and juvenile issues related to single-parent homes from the inherent lack of parental supervision, *and reduce* all manner of related costs to parents by saving thousands of dollars wasted on court issues that are now available to provide for necessities, housing, food, and clothing. The bills will *increase* the mental and physical health and the emotional well-being of children caught up in a life-altering event of which they have no say.

Most importantly, a presumption of equal physical and legal custody in times of emotional upheaval will alleviate a child's *feeling of abandonment* by one parent, *increasing* self-esteem and *maintaining* regular participation with BOTH parents as they grow up, *providing a good role model for their future relationships*.

The “**Ohio Children’s Parental Involvement Act**” will ensure that children of divorce and single-family homes will grow up knowing that they are loved and cherished by BOTH parents, importantly instilling *positive reinforcement* to a negative situation in their life.

The child’s relationship with each parent is *in the best interests* of Ohio’s children.

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