



**WHY A PRESUMPTION OF EQUAL CUSTODY
IS REQUIRED and HOW
SENATE BILL 144 and HOUSE BILL 253
ACHIEVE CONSTITUTIONAL COMPLIANCE**

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Prepared by the National Organization for Parental Equality

Ohio custody law fails to meet federal requirements where parental rights are federal rights. A PRESUMPTION OF CUSTODIAL EQUALITY is REQUIRED to PROTECT EXISTING PARENTAL RIGHTS of SUITABLE AND FIT PARENTS. PARENTAL RIGHTS are ARBITRARILY INFRINGED UPON and REMOVED by THE STATE of OHIO WITHOUT ANY DUE PROCESS and EQUAL PROTECTIONS REQUIRED UNDER FEDERAL LAW.

The presumption of each parent's custodial rights require Ohio law to provide an oral hearing to confront witnesses with a clear and convincing evidentiary standard before denying a parent of their custodial right.

Ohio law must expressly provide fundamental due process requirements which do not exist in the current state law. Current Ohio law only requires the submission of an affidavit before a parent's federal rights can be denied.

To correct this deficiency, Senate Bill 144 and House Bill 253 have been introduced. However, there is a misconception on Senate Bill 144 and House Bill 253 in that some people believe this legislation will make drastic changes to Ohio custody statutes and the discretion of the court. This is not the case! What this legislation will do is require an equal parenting status, as existed in the marriage, through the pendency of any divorce or separation action. This will inherently bring Ohio's custody statutes into constitutional compliance with federal law. This is one small and simple change to achieve compliance.

WHERE BOTH PARENTS WERE SIMILARLY SITUATED DURING THE MARRIAGE AND ARE SIMILARLY SITUATED AS TO THE RELATIONSHIP WITH THEIR CHILDREN, THE STATE HAS NO AUTHORITY TO IMPLICATE, INFRINGE, AND INVIDIOUSLY DENY ONE PARENT, BY DESIGNATION AS NON-CUSTODIAL or NON-RESIDENTIAL, OF THEIR PARENTAL RIGHTS WITHOUT PROVIDING FULL CONSTITUTIONAL PROTECTIONS.

Attached is a "**Statement of Constitutional Compliance**" which provides an in-depth analysis of the requirements of state law on custody to comply with federal law.