

**House Bill No. 1242**  
**House Judiciary Committee**  
**Testimony Presented Seth O'Neill, JD, MSW**  
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Chairman Klemin and members of the House Judiciary Committee, my name is Seth O'Neill and I am representing the North Dakota Domestic & Sexual Violence Coalition in opposition to HB 1242.

This bill would make substantial changes to family law provisions of the North Dakota Century Code. Presently, when there is a custody action in court, the court must consider the best interests of the child when deciding parenting responsibility. This bill would change that by presuming that "shared decision-making responsibility" is in the best interests of the child. Although this presumption may be rebutted, there are only three instances that allow for the presumption to be rebutted.

These instances are when the presumption:

1. May cause harm to the child
2. May endanger the child's physical or emotional health
3. Is not feasible because the circumstances of the parents do not allow for a parenting schedule that provides for exchanges of the child between parents at least every seven days.

The bill also states that the presumption of shared decision-making responsibility does not apply in cases of domestic violence. However, this provision does not alleviate our concerns as proving domestic violence in a family law matter can be difficult. Perhaps there is a pattern of coercive control but there does not exist one instance of domestic violence which caused serious bodily harm. The current best interest factors allow the court to take a holistic approach in determining residential and decision-making responsibility. This holistic approach allows the court to determine what is best for a child and can take factors regarding the parents into account. Simply put, this bill is dangerous.



Each family is incredibly unique. The presumption that shared decision-making responsibility is best for every family is not accurate. Some parents may not have the capacity to parent 50% of the time but perhaps this wouldn't cause the child harm so the presumption cannot be rebutted.

This bill also does not the situation of default judgments. A parent who obtains a default judgment in a custody action may still have share decision-making responsibility with a parent who did not even show up to court to participate in the proceeding. This does not make sense to reward an absent parent. Again, the parent who does petition would have to show that shared decision-making responsibility would cause harm to the child. This is an additional hurdle for a parent who is likely a solo-parent.

Due to these reasons, we strongly encourage the committee to give HB 1242 a "Do-Not-Pass" Recommendation. I appreciate your time and I am happy to answer any questions you may have. Thank You.

