

House Judiciary Committee Members,

I am writing to urge your opposition to HB 1242. As you know, this bill creates a presumption for equal residential responsibility for children, meaning the court would be required to order equal residential responsibility unless the presumption of fitness is rebutted.

HB 1242 says that the presumption of equal residential responsibility may be rebutted for certain reasons including if a parent *“(1) May cause harm to the child; (2) May endanger the child's physical or emotional health; or (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.”*

This bill notably does not address substance use disorders, which are the primary cause of parental neglect in North Dakota. The reasons that would rebut the presumption of equal responsibility are vague and it is unclear how situations of parents being in active addiction would be addressed if this bill were passed. While the bill does indicate an exception for endangering the child’s physical or emotional health, it requires the danger to have already occurred. For example, if a parent drives a child while drinking, the other parent must then litigate whether the child was in danger and the level of the parent’s intoxication. This is concerning because, as we all know, it may take only one occurrence of driving under the influence to cause death or life altering injuries to a child.

Further, substance use disorders often come with many significant but invisible emotional issues for children. It is unclear how damage to the emotional health of a child would be proven. Waiting to act until the child has suffered irreversible damage is inexcusable.

It is not clear what problem with the current law this bill is trying to solve, but the addition of vague language to North Dakota Century Code that potentially puts the rights of parents in active addiction above their children’s safety is not the answer.

Please let me know if you have questions about my testimony. Thank you for your consideration. **VOTE NO ON HB 1242!**

Sincerely,
Krista Fremming
District 47