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**Testimony Regarding Senate Bills 356, 371, 385, and 736
Before the Senate Judiciary Committee**

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Chair Prozanski, Vice Chair Thatcher, and members of the Committee:

On behalf of the Oregon Law Center (OLC), I submit this testimony regarding Senate Bills 356, 371, 385, and 736. I was a member of the Custody and Parenting Time Legislative Workgroup that met during this past interim. I thank you for the opportunity to submit comments.

OLC is a statewide non-profit law firm whose mission is to provide access to justice for the low-income communities of Oregon by providing a full range of the highest quality civil legal services. Because we are not able to help all who qualify for our services, we prioritize the provision of assistance to the neediest Oregonians – the lowest of income, the most vulnerable. The single most frequent request for help from our offices is in the area of family law. Often, our clients are struggling to escape domestic violence. Rarely are the issues facing our clients more compelling than when parents seek our assistance in establishing safety and stability for themselves and their children in the aftermath of a separation. In all cases, we look for outcomes that, tailored to the needs and circumstances of the individuals involved, will enable the children to thrive. It is through this lens that my testimony is provided regarding the bills before the committee this morning.

Senate Bill 356: Parenting Plan Notification Requirements - Support

Senate Bill 356 would amend ORS 107.102, Oregon's parenting plan statute, to provide explicit authority for judges to include notification and consideration requirements when entering detailed parenting plans. While this authority is already inherent in Oregon statutes, the fact that the bill makes this explicit will perhaps facilitate greater use of this authority. The bill is in keeping with the state's parenting time policies as set out in ORS 107.101, 107.102, 107.106, and 107.149, in which on-going communication and involvement between fit parents and children is a priority when it is in the best interests of the children. For these reasons, we support the bill.

Senate Bill 371: Pilot Program for Attorneys for Children – Support with Amendment

Senate Bill 371 would establish a pilot program to be implemented in three communities in both urban and rural areas of the state to allow for the appointment of legal counsel for children in contested domestic relations proceedings. This bill is in keeping with the child-focused principles of Oregon's family law code. In high conflict or difficult cases, the presence of a well-trained attorney for the children can have a positive impact on the outcome of the case. Often, bringing an advocate for the voice of the child to the center of a proceeding can reduce conflict, and lead to earlier settlement. Though ORS 107.425 already allows judges to appoint attorneys for children, there is no structure, guidance, or budget in current law designed to implement that statute. Senate Bill 371 will establish a structure within which a court-appointed counsel program can be administered in both urban and rural environments. There is a data collection component that will allow us to evaluate the impact of court appointments on outcomes of cases.

Amendment: While the bill currently proposes that the Department of Justice administer the grant, it is our understanding that amendments are pending to substitute the Oregon Judicial Department and the Office of Public Defense Services for the oversight agencies.

We support this amendment and the underlying bill.

Senate Bill 385: Custody and Parenting Time Enforcement ADR – Support with 2 Amendments

Senate Bill 385 with the Dash 1 amendment allows the presiding judge in each judicial district to establish an informal alternative dispute resolution conference process for the resolution of custody and parenting time modification or enforcement disagreements. The intent of the program is to ensure that parents have access to tools they can use to avoid litigation, thus hopefully reducing conflict and expense for all. The bill contains provisions to address situations in which there are safety concerns between the parties, and requires training of the conference officers. If the parties are unable to reach agreement in the conference, they may proceed to court. This bill is in keeping with the principle parents who can agree on the nature and structure of their parenting plans tend to follow them better and with less conflict for children.

Amendment needed: In preparing my testimony I noticed that there is no exclusion from the bill for family abuse prevention act proceedings. Those proceedings, found in ORS 107.700 et. seq., ought not to be subject to alternative dispute resolution conferences, due to the immediacy of safety concerns involved.

With the above two amendments, we support this bill.

Senate Bill 736: Custody Terminology Omnibus Bill - Concerns

Senate Bill 736 proposes to modify terminology in domestic relations proceedings regarding custody and parenting time with children. We support the concept of creating definitions for the terms “custody,” “joint custody,” and “parenting time.” These terms can be confusing, and have significant legal import that is often fleshed out by the application of other statutes. Creating a definition section, where interested parties could find the terms and understand their implications, would be of value.

However, after establishing definitions, the bill goes on to accomplish a second goal: that of moving away from the use of the word “custody.” For example, the bill uses the term “parenting time” to refer to time that both parents have with children, in a way that does not distinguish between the custodial parent and the non-custodial parent. At the same time, many of our state and federal statutes have been drafted relying on one accepted legal meaning of the word “custody,” and changing the vocabulary could have potential un-intended consequences.

For example, would changing our custody and parenting time terminology have an impact on TANF benefits, Child Support benefits, the Uniform Child Custody Jurisdiction and Enforcement Act, or family law court order enforcement mechanisms? Many court forms and self-help materials would require updating in order to avoid consequences. While legislative counsel has done an admirable job drafting the bill, the Workgroup has not had time to vet and discuss the impact of the proposed changes thoroughly. We urge caution before proceeding without greater opportunity to examine these proposals, and the possible impact of changes.

We know that the state of Illinois recently passed a similar to Senate Bill 736, but only after approximately 10 years of researching cross-references and potential unintended consequences. Their law has been in effect for just over 2 years – we would urge seeking further information before undertaking such a significant change to important laws that provide stability for Oregon families.

Thank you very much for your consideration and for the opportunity to testify before you.