

AN ACT CONCERNING THE PRESUMPTION OF SHARED CUSTODY IN DISPUTES
INVOLVING THE CARE AND THE CUSTODY OF MINOR CHILDREN

STATEMENT OF ATTORNEY ELIZABETH T. SHARPE
January 9, 2014

I would like to submit written testimony to the Task Force to Study Legal Disputes Involving the Care & Custody of Minor Children: Public Hearing (S.A. 13-24)

The purpose of this communication is to address and comment only on the specific portion of the Task Force's work which considers whether there should be a presumption of shared parenting in legal disputes involving the care and custody of minor children.

I have been admitted as an attorney in the State of Connecticut since November of 1987 and have represented children in custody disputes many times. My experience has given me a perspective and an appreciation of the difficulties families experience in the courts.

First, I would like to state that Connecticut General Statutes 46b-56a (b) regarding the presumption that joint legal custody is in the best interests of minor children denotes the state's acknowledgement that each parent has a joint responsibility for the children of the marriage—regardless of the custody arrangement. This particular statute signifies that the responsibilities are not allocated by parental responsibility plans. Each mother and father is one hundred percent a parent when working out of town; either parent may get a phone call in an emergency, regardless of "whose day it is." A mother, or a father, who makes activities possible with a paycheck, even if he or she cannot be there, is being a responsible parent. Joint legal custody means that children will have access to both parents, all the time.

Shared physical custody is another matter. When developing a parenting plan, I have found that each family is not only different—each is unique. While the duties of parents are universal and have no boundaries, the needs of children are individual. The causes of the family's breakdown must be factored into any parenting plan. Where there was domestic violence, mental illness or substance

abuse, a presumption of shared custody would be most inappropriate, and may even be dangerous for children.

A presumption that shared custody is in all families' best interests would also ignore the individual characteristics of children. Each child's gender, age, interests and emotional needs must be combined with the characteristics of each parent. The questions regarding a child's best interests always begin with "what," not "who." The determination of what is in a child's best interests, by necessity, must begin with an assessment of the child, first and foremost.

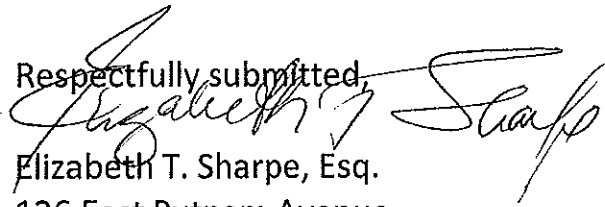
The allocation of times with children has absolutely no effect on parental "rights," any more than it would in intact families. Parents who communicate well, who have the resources to live close to one another or in the same school district and who have a relationship that can survive the process of divorce are good candidates for shared custody. Many divorcing parents do not enjoy such luxuries.

A presumption that shared custody is in minor children's best interests in every case would lead to an exponential increase in litigation in those families who are not lucky enough to possess those communication skills, those resources or that type of relationship and this would be in addition to those families where domestic violence, mental illness or substance abuse are present (or alleged). Such an increase in litigation would create a tremendous burden for the courts, for families and, most importantly, for the children of those families.

I have been involved in cases where this particular issue has led to conflict so severe that sole custody became the only choice a court could make. These are cases where the litigation actually caused the deterioration of the parents' communication. More importantly, it resulted in serious harm to the children. The children became the casualties, and sometimes even the participants, in these conflicts.

Because I believe that we all—family members, legislators, mental health professionals, lawyers who serve as guardians and attorneys for minor children or anyone who works with children in our society—have a responsibility to focus on children and go from there, I am opposed to this specific portion of the Task Force's work.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Elizabeth T. Sharpe". The signature is written in a cursive style with a large, sweeping initial "E".

Elizabeth T. Sharpe, Esq.

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