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The Honorable Jim Runestad
Chairman
Michigan House of Representatives
House Judiciary Committee
P.O. Box 30014
Lansing, MI 48909

RE: HOUSE BILL 4691 – MICHIGAN SHARED PARENTING ACT

Dear Chairman Runestad and distinguished committee members:

The National Family Justice Association, a national non-profit educational organization testifying on behalf of children and their families, is hereby submitting written testimony and historical support documentation before the Michigan House Judiciary Committee in support of House Bill 4691.

Although this committee will likely receive many compassionate testimonial social positions both for and against the aforementioned legislation, in our research and opinion there is but one position that demands precedence. It is as follows:

U.S. Supreme Court decisions have determined that..."the interest of parents in their relationship with their children is sufficiently fundamental to come within the finite class of liberty interests protected by the 14th Amendment. Because a fundamental right cannot be denied without a compelling state interest that cannot be achieved by any less restrictive means, in the absence of abuse or neglect, [both fit] parents have a right to both legal and physical joint custody [of their minor children]¹. The argument is straightforward:

- a) A parent's right to raise a child is a constitutionally protected liberty interest...a well established constitutional law;
- b) The [Michigan] state courts' granting of sole physical custody is sufficiently intrusive to warrant scrutiny, i.e. granting sole custody to one parent impinges on the rights of the other parent to a significant extent. A parent whose time with a

¹ Children's Rights Council, Hyattsville, MD

- child has been limited by court order to the typical four-days per month visitation clearly has had his or her rights to raise that child(ren) severely restricted.
- c) The compelling Michigan state interest *in the best interest of the child* can be achieved by less restrictive means than sole custody. Over twenty-five years of research has shown joint physical custody to be as good as or better than sole custody in assuring the best interest of the child.

In one of her commentaries “Children’s rights should include life with both parents”, noted columnist, Phyllis Schlafly writes, “Debates about same-sex marriage and gay adoptions always include the argument that a child has the right to both a father and a mother. If that is true, why is a child usually deprived of that right when heterosexual couples divorce? It would be seem that maintaining a father’s love and authority would be crucial when a child’s live is turned upside down by divorce. Yet, [Michigan] family courts have routinely deprived children of one parent, usually the father, restricting his time with his child to about six days per month.” How can it be in the best interest of children to force them to forfeit one parent?

Actually, that answer lies not in the state’s interest in protecting children from harm, abuse or neglect, but rather in state funding received from the Department of Health & Human Services in the form of Title IV-D block grants and incentives...an issue perhaps for another time and place.

In the final analysis, substantially shared parenting support is a constitutional right that has been routinely violated here in Michigan under current law by our family courts. The legislation before the House Judiciary Committee today simply seeks to end most of these violations and finally bring the state into compliance with the United States Constitution as declared by the United States Supreme Court by ensuring in most cases involving established and separating parents, minor children would maintain the right to a substantially equal ongoing relationship with both responsible parents.

Finally, as with most well intended governmental actions, there are typically unintentional consequences. The “no-fault divorce” laws of the 1970s coupled with the Welfare Reform laws of the 1990s and exacerbated with the complicity among state branches of government have combined to produce family disruptions at an unprecedented scale where over a third of Caucasian children, nearly half of Hispanic children and nearly three-fourths of African-American children are now living in single-parent family households, in our urban centers both nationwide and especially here in Michigan.

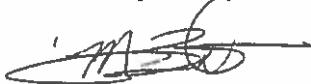
Unfortunately, the unintended consequence plays out every day in our newspapers, radio and television newscasts in the form of crime reports and statistics. Sadly for us here in Michigan, we are likely producing as many criminals as we do automobiles in the state. As routinely reported, these criminals now cost Michigan more to house in our correctional facilities as it

does to assist students to achieve a higher education...not to mention the costs to the victims of their crimes.

Why may this be important to this particular hearing? **The vast majority of our criminals are from broken, single-parent or sole custody households with little or no father involvement and..."An increase in the proportion of single-parent families in a neighborhood was associated with a significant increase in youth violence².**

The destruction of the involved two-parent household, the creation of new criminals/prisoners and the resulting increased state costs are not only Detroit and Flint tragedies, they are Michigan tragedies that can be mitigated by passing HB 4691. **We strongly urge this committee to vote the legislation out for public consideration by the full body of the people's representatives.**

Respectfully,



Murray Davis
Board President

Cc: Judiciary Committee Members

Enclosures: Support Documentation

² Cited from The Heritage Foundation via "Community Context, Social Integration Into Family, and Youth Violence", Knoester, Chris, Haynie, Dana L. Journal of Marriage and Family Vol. 67, Number 3, August, 2005. Page(s) 767-780