

# SENATE BILL REPORT

## SB 5920

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As of January 28, 2022

**Title:** An act relating to parenting plans.

**Brief Description:** Concerning parenting plans.

**Sponsors:** Senator Warnick.

**Brief History:**

**Committee Activity:** Law & Justice: 1/31/22.

**Brief Summary of Bill**

- Defines a substantial change in circumstances as a period of more than 24 consecutive months during which a moving parent, by clear and convincing evidence, has not used drugs, alcohol, or other substances.
- Establishes how a moving parent may demonstrate clear and convincing evidence.
- Establishes criteria for testing facilities used by a moving parent to prepare reports showing no use of drugs, alcohol, or substances.
- Allows courts discretion to modify parenting plans when the moving parent demonstrates that they have not used, drugs, alcohol, or other substances for less than 24 consecutive months.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Ryan Giannini (786-7285)

**Background:** Parenting Plans. In dissolution or legal separation cases in which there are minor children, the court must establish a parenting plan that provides for the care of the minor children. The parenting plan must include an allocation of decision-making authority

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to one or both parents and establish a residential schedule for the child.

The residential schedule designates in which parent's home the child resides on given days of the year. A court must consider specific factors when determining the child's residential schedule.

Modification of Parenting Plans. A court may order adjustments to the residential aspects of a parenting plan upon a showing of a substantial change in circumstances with respect to either parents or the child, if the proposed modification is only a minor modification, the modification does not change the residence the child is scheduled to reside in the majority of the time, and, among other considerations, the court finds that it is in the best interest of the child to increase residential time with the parent with whom the child does not reside a majority of the time.

A parent with whom a minor child does not reside with a majority of the time may not seek expansion of residential time if the court precluded or limited any provisions of the parenting plan based on a finding that a long-term impairment resulting from drug, alcohol, or other substance abuse interferes with the parent's performance of parenting functions, unless the moving parent demonstrates a substantial change in circumstances specifically related to the long-term impairment from drug, alcohol, or other substance abuse. Current law does not define a substantial change in circumstances.

**Summary of Bill:** A substantial change in circumstances, is demonstrated when the moving parent shows by clear and convincing proof the parent has not used drugs, alcohol, or other substances for more than 24 consecutive months.

A moving parent may establish clear and convincing proof by submitting to the court:

- a report indicating no use of drugs, alcohol, or other substances by the moving parent for a time period of 24 consecutive months or more within 90 days of filing for modification consisting of at least three random observed lab-based urinalysis tests per month during that time period;
- a report indicating no use of drugs, alcohol, or other substances by the moving parent for a time period of 24 consecutive months or more within 90 days of filing for modification consisting of hair or nail tests performed at least every 90 days during that time period; or
- such evidence as the court deems appropriate for a time period of 24 consecutive months or more within 90 days of filing for modification.

Testing facilities used to prepare reports to show no use of drugs, alcohol, or other substances by the moving parent must:

- use United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration accredited labs for processing samples;
- have at least one United States Department of Transportation certified collector on staff at all times and follow United States Department of Transportation protocols for

- testing; and
- have been in business continuously for at least three years performing the type of tests the moving parent will use to establish no use of drugs, alcohol, or other substances.

A court maintains discretion to make modifications to a parenting plan where the moving parent demonstrates the parent has not used, drugs, alcohol, or other substances for less than 24 consecutive months as it deems appropriate.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.