

HOUSE BILL ANALYSIS

HB 2407

Title: An act relating to shared parental responsibility.

Brief Description: Providing a presumption of shared parental responsibility after a dissolution of marriage.

Sponsors: Representatives Kastama, Talcott, Gombosky, Lantz, Radcliff, Regala, Anderson, Wolfe, Morris, Kessler and O'Brien.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Edie Adams (786-7180).

Background: When a court enters an order for the dissolution, legal separation, or declaration concerning invalidity of marriage the court must determine a permanent parenting plan if the parties have children. The parenting plan must contain provisions concerning where the child will reside throughout the year and provisions concerning each parent's authority to make decisions for the child regarding the child's education, health care, and religious upbringing. The court must consider what is in the best interests of the child in making decisions concerning the provisions of the parenting plan.

Residential Provisions: The court is directed to make residential provisions for each child that encourage each parent to maintain a loving, stable, and nurturing relationship with the child consistent with the developmental level of the child and the social and economic circumstances of the family. The court is required to consider the following factors when determining a child's residential schedule:

- The relative strength, nature, and stability of the child's relationship with each parent, and whether one parent has taken a greater responsibility in providing for the child's daily needs;
- The knowing and voluntary agreements of the parties;
- Each parent's past and potential for future performance of parenting functions;
- The emotional needs and developmental level of the child;
- The child's relationship with siblings and other significant adults;
- The child's involvement with his or her physical surroundings, school, or other significant activities;
- The wishes of the parents and the wishes of a child who is mature enough to express reasoned and independent preferences; and

- Each parent's employment schedule, making accommodations consistent with those schedules.

Decision-making Authority: In determining how to allocate decision-making authority among the parents, the court must consider the following criteria:

- The history of participation of each parent in decision-making;
- Whether the parents have a demonstrated ability and desire to cooperate with each other in decision-making;
- The parent's geographic proximity to one another if it affects the parent's ability to make timely mutual decisions; and
- The existence of a limitation imposed by law on a parent's contact with a child, for example, if the parent has been convicted of child abuse or a sex offense.

The court may order sole decision-making authority to one parent only if: both parents are opposed to mutual decision-making authority; one parent is opposed to mutual decision-making authority and the court finds the opposition is reasonable; or a limitation on a parent's decision-making authority is mandated by law.

The court must approve agreements of the parties allocating the decision-making authority if the agreements are knowing and voluntary and the agreements are consistent with any limitations on a parent's decision-making authority mandated by law.

Summary of Bill: A presumption is created, for the purposes of determining a permanent parenting plan, that shared parental responsibility is in the best interests of a child. "Shared parental responsibility" is defined as shared residential placement and mutual decision-making authority. "Shared residential placement" means that each parent is awarded a period of time, amounting to at least one-third of the year, in which the child resides with the parent or is under the direct, day-to-day care and supervision of the parent.

The presumption that shared parental responsibility is in the best interests of the child may be overcome if the court finds that shared parental responsibility would be detrimental to the child, or if the parents have agreed to award residential placement or decision-making authority to one parent.

A parent that alleges that shared parental responsibility would be detrimental to a child has the burden of establishing the allegation. If the court does not order shared parental responsibility, the court must enter written findings stating the reasons shared parental responsibility would be detrimental to the child.

Fiscal Note: Not requested.

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

Office of Program Research