
Civil Rights & Judiciary Committee

SSB 5920

Brief Description: Concerning parenting plans.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senator Warnick).

Brief Summary of Substitute Bill

- Permits a parent whose residential time with the child is limited based upon substance abuse to demonstrate a substantial change in circumstances, required when seeking expansion of residential time, by showing that the parent has not used drugs, alcohol, or other substances.
- Requires the court to schedule a hearing when a substantial change in circumstances is demonstrated and authorizes the court to make adjustments to the parenting plan if it is in the best interests of the minor child.

Hearing Date: 2/22/22

Staff: Yelena Baker (786-7301).

Background:

Parenting Plans and Factors Considered in Limiting or Precluding Residential Time with a Child. In dissolution cases in which minor children are involved, the parties must have a parenting plan that provides for the care of the minor children. The parenting plan must include an allocation of decision-making authority to one or both parents regarding the child's education, health care, and religious upbringing. The parenting plan must also set forth the child's residential time with each parent and include a specific residential schedule designating in which parent's home the child will reside on given days of the year.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

In establishing a parenting plan, the court may limit or preclude a parent's residential time with the child based upon abandonment, neglect, child abuse, history of domestic violence, or if the parent has been convicted of a sex offense as an adult.

The court may also limit or preclude residential time if the parent's involvement or conduct may have an adverse effect on the child. Factors to be considered include:

- neglect or substantial nonperformance of parenting functions;
- a long-term emotional or physical impairment that interferes with the performance of parenting functions;
- a long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;
- the absence or substantial impairment of emotional ties;
- the abusive use of conflict which creates the danger of serious damage to the child's psychological development;
- a parent's withholding the child from the other parent without good cause; and
- any other factor the court finds adverse to the child's best interest.

Once a parenting plan is final, courts favor stability for the child and will not modify the parenting plan unless certain circumstances exist.

Major Modifications to Residential Aspects of a Parenting Plan.

To modify the residential aspects of a parenting plan, there must be a substantial change in circumstances to the child or the parent not requesting the modification and the modification must be necessary to serve the child's best interests. In addition, the court must find that either:

- the parents agree to the modification;
- the child has been integrated into the petitioning parent's family with the other parent's consent in substantial deviation from the original parenting plan;
- the child's present environment is detrimental to the child; or
- the court has found the nonmoving parent in contempt of court at least twice in three years for failure to comply with residential time ordered.

Minor Modifications to Residential Aspects of a Parenting Plan.

The court may order a modification to the residential aspects of a parenting plan if there is a substantial change in circumstances of the child or either parent and the proposed modification is only a minor modification that does not change the residence the child is scheduled to reside in the majority of the time. In addition, the court must find that the proposed modification:

- does not exceed 24 full days in a calendar year; or
- is based on a change of residence of the parent with whom the child does not reside the majority of the time or an involuntary change in work schedule by a parent that makes the residential schedule impractical to follow.

Additionally, the court may order a minor modification in the residential schedule upon a showing of a substantial change in circumstances of the child or either parent and:

- the modification does not result in a schedule that exceeds 90 overnights per year in total;

- the court finds that the parenting plan does not provide reasonable time with the parent with whom the child does not reside a majority of the time; and
- the court finds that it is in the best interests of the child to increase residential time with the parent in excess of 24 full days in a calendar year.

A parent with whom the child does not reside a majority of the time and whose residential time with the child is limited based on inappropriate conduct, a long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions, or other factors specified in the statute may not seek expansion of residential time under the minor modification provision unless that parent demonstrates a substantial change in circumstances specifically related to the basis for the limitation.

Summary of Bill:

If a parent's residential time with the child is limited based upon a finding of drug, alcohol, or other substance abuse that interferes with the performance of parenting functions and the parent seeks expansion of residential time under the minor modification provision, the parent may demonstrate the required substantial change in circumstances by showing, by clear and convincing proof, that the parent has not used drugs, alcohol, or other substances.

The court must schedule a hearing when a substantial change in circumstances is demonstrated and may make adjustments to the parenting plan in keeping with the best interests of the minor child.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.