HOUSE BILL ANALYSIS
HB 1362

Title: An act relating to residential provisions of permanent parenting plans.

Brief Description: Creating the friendly parent presumption.

Sponsors: Representatives Kastama, Sheahan, Lantz, Dickerson, Hurst, Edmonds, Constantine, Stensen, Lambert, Carrell, Kessler, Thomas and McIntire.

Brief Summary of Bill

- Requires the court to consider, when determining a child's residential schedule under a parenting plan, which parent is more likely to allow and encourage frequent and continuing contact between the child and other parent.

- Changes how the court weighs the factors it must consider when determining a child's residential provisions under a parenting plan.

HOUSE COMMITTEE ON JUDICIARY

Staff: Trudes Hutcheson (786-7384).

Background:

When a court enters an order for dissolution, legal separation, or declaration concerning the invalidity of marriage, the court must also determine a permanent parenting plan if the parties have children.

The parenting plan must: (a) provide for a method of resolving future disputes about the children; (b) allocate decision making between the parents; and (c) make residential provisions for each child. In all aspects of the parenting plan, the court must consider the best interests of the child.

Regarding the residential schedule, the court must make provisions 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.

Specifically, the court is required to consider the following factors when determining a child's residential schedule:

(a) the relative strength, nature, and stability of the child's relationship with each parent, including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child;

(b)   the knowing and voluntary agreements of the parties;

(c) each parent's past and potential future performance of parenting functions;

(d)   the emotional needs and developmental level of the child;

(e) the child's relationship with siblings and other significant adults and involvement with his or her physical surroundings, school, or other significant activities;

(f) the wishes of the parents and wishes of a child who is mature enough to express reasoned and independent preferences; and

(g)   each parent's employment schedule, making accommodations consistent with those schedules.

The court is required to give the greatest weight to the first factor.

In 1993, the state supreme court analyzed the first factor and, after researching the legislative history of the statute, concluded that the first factor did not create a presumption in favor of placement with the primary care giver. The court's decision indicated that the relative strength, nature, and stability of the child's relationship with each parent should be the more critical consideration than which parent had taken greater responsibility for performing parenting functions relating to the daily needs of the child. In re Marriage of Kovacs, 121 Wn.2d 795 (1993).

Summary of Bill:

Another factor is added to the list of factors a court must consider when determining a child's residential placement under a parenting plan. The court must consider which parent is more likely to allow and encourage the child frequent and continuing contact with the other parent.

In determining a child's residential schedule, the court must give the greatest weight only to the relative strength, nature, and stability of the child's relationship with each parent. Whether a parent has taken greater responsibility for the daily needs of the child is now listed as a separate factor and is no longer part of the factor given the greatest weight by the court.

The best interest of the child– standard is explicitly stated as the standard used by the court when determining a child's residential provisions.

Fiscal Note: Not requested.

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

Office of Program Research