

HOUSE BILL ANALYSIS

HB 1456

Title: An act relating to restricting a parent's residential time and visitation with a child.

Brief Description: Restricting a parent's residential time and visitation with a child.

Sponsors: Representatives Ericksen, Lovick, Mielke, Schindler and Barlean.

Brief Summary of Bill

- Prohibits a court from ordering residential time or visitation under a parenting plan with a parent who has been convicted of aggravated first-degree murder or first-degree murder of the child's other parent, unless the child wants residential time or visitation.

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 enter a permanent parenting plan if the parties have children. The parenting plan must include a dispute resolution process, allocation of decision-making authority, and 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 is required to consider certain factors listed in the statute. One factor the court must consider is the wishes of the child if the child is mature enough to express reasoned and independent preferences.

Parenting plans may include language permitting telephone contact and an allocation of how the child will spend holidays. Generally, a court may modify the residential provisions in a parenting plan if there has been a substantial change in circumstances and modification is in the best interest of the child.

The court must limit or restrict a parent's residential time with a child if there is a finding that a parent has engaged in conduct that would put the child at risk, including willful abandonment of the child, physical, sexual, or emotional abuse of the child, or a history of domestic violence. There is a presumption that the parent poses a danger to the child if the parent has been convicted of certain sex offenses.

A person commits first-degree murder when he or she kills another person: (a) with premeditated intent; (b) under circumstances constituting an extreme indifference to human life; or (c) while committing or attempting to commit certain felonies. A person convicted of murder in the first degree must be sentenced to no less than 20 years imprisonment.

A person commits aggravated first-degree murder when the person commits first-degree murder with premeditation and under certain aggravating– circumstances. The aggravating circumstances are established in statute. Examples of aggravating circumstances include if the victim was a law enforcement officer, if there was more than one victim, or if the victim was a family or household member and the offender had a history of certain domestic violence offenses. A person convicted of aggravated first-degree murder must be sentenced to life imprisonment without possibility of parole, or sentenced to death if there are no sufficient mitigating circumstances to merit leniency.

Summary of Bill:

A court must terminate or preclude residential time or visitation between a parent and a child if the parent has been convicted of aggravated first-degree murder or first-degree murder and the victim is the child’s other parent.

If the child is sufficiently mature to express reasoned and independent preferences and wishes to have court-ordered residential time or visitation, the court may enter an order granting residential time or visitation. If the court does not grant residential time or visitation, no person may bring about any visitation with the minor child and the parent without the consent of the child’s custodian or legal guardian.

Fiscal Note: Not requested.

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