

HOUSE BILL ANALYSIS

HB 1470

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, Hurst, Kessler, Miloscia, Dickerson and Campbell.

Brief Summary of Bill

- Creates a presumption, for the purposes of determining a parenting plan, that shared parental responsibility is in the child's best interest.
- Allows a court to modify a support order if a parent fails to exercise residential time under an order granting shared parental responsibility and the other parent's expenses are substantially increased.

HOUSE COMMITTEE ON JUDICIARY

Staff: Trudes Hutcheson (786-7384).

Background:

Under Washington's dissolution of marriage laws, divorcing couples with children must establish a parenting plan. The parenting plan must include: (a) a dispute resolution process for future disagreements; (b) an allocation of decision-making authority; and (c) a residential schedule. In determining the provisions of the parenting plan, the court must consider the child's best interest.

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. 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.

Decision-making Authority:

The parenting plan must allocate decision-making authority to one or both of the parents regarding the child's education, health care, and religious upbringing. The court must consider the following criteria in allocating decision-making authority:

- (a) the history of each parent's participation in decision making;
- (b) whether the parents are able and desire to cooperate with each other in decision making;
- (c) each parent's geographic proximity to the other if it affects the parents' ability to make timely mutual decisions; and
- (d) the existence of a limitation imposed by law on a parent's contact with a child.

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

Limitations on Residential Time and Decision Making:

The court must limit or preclude residential time if the parent's conduct may have an adverse effect on the child, such as, if the parent has engaged in child abuse, sexual abuse, or domestic violence. In addition, the court must consider the following factors: neglect or substantial nonperformance of parenting functions; the parent's long-term emotional or physical impairment; the parent's long-term substance abuse; the absence of emotional ties; an abusive use of conflict that creates a danger 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.

Modification of Child Support Orders:

Generally, modifications to a child support order may be made only upon a showing of a substantial change of circumstances. The change of circumstances generally must be: (a) one that has arisen since the last support order; (b) of a continuing, and not temporary, nature; and (c) related to changed financial needs of the children or ability of the parents to meet those needs. Under certain conditions, modifications may be made without a showing of a substantial change in circumstances.

Summary of Bill:

A presumption is created, for the purposes of a parenting plan, that shared parental responsibility is in the child's best interest. Shared parental responsibility means shared residential placement and mutual decision-making authority. Shared residential placement means an order awarding each parent significant periods of time in which the child resides with the parent or is under the care and supervision of the parent. Shared residential placement does not necessarily mean the child must alternate between households for brief and substantially equal intervals of time.

The presumption may be overcome by a preponderance of the evidence. There is no presumption if: (a) the parents agree that residential time or decision making should be given to only one parent; (b) the court finds that shared parental responsibility would be detrimental to the child; or (c) one of the parents has a history of acts of domestic violence.

If the court does not order shared parental responsibility, the court must enter written findings stating the reasons for its decision.

When modifying a child support order, a court may consider it a substantial change in circumstances— if one parent has failed to exercise residential time under shared residential placement and, as a result, the other parent's expenses have substantially increased.

Fiscal Note: Not requested.

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

Office of Program Research