

SENATE BILL REPORT

SB 5038

As of February 4, 2003

Title: An act relating to adding a factor a court is to consider in determining residential time between parents.

Brief Description: Adding a factor a court is to consider in determining residential time between parents.

Sponsors: Senators Kastama and Esser.

Brief History:

Committee Activity: Children & Family Services & Corrections: 2/7/03.

SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES & CORRECTIONS

Staff: Edith Rice (786-7444)

Background: In an action for dissolution of marriage (divorce) when minor children are involved, a permanent parenting plan must be incorporated into the final decree. The permanent parenting plan addresses parenting functions such as maintaining a nurturing relationship with the child, attending to the child's daily needs, education, and financial support. The court uses the best interests of the child as the policy standard by which parental responsibilities are allocated. In establishing the child's residential schedule, the court is to consider the following seven factors (factor (i) shall be given the greatest weight):

- (i) the relative strength, nature, and stability of the child's relationship with each parent, including whether a parent has taken the greater responsibility for performing parenting functions relating to the daily needs of the child;
- (ii) the agreements of the parties, provided they were entered into knowingly and voluntarily;
- (iii) each parent's past and potential for future performance of parenting functions;
- (iv) the emotional needs and developmental level of the child;
- (v) the child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities;
- (vi) the wishes of the parents and the wishes of a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule; and
- (vii) each parent's employment schedule, and shall make accommodations consistent with those schedules.

Current law does not require that the court consider which parent is more likely to allow and encourage the child frequent and continuing contact with the other parent, often referred to as the "friendly parent presumption."

Summary of Bill: A court must now consider which parent is more likely to allow and encourage the child frequent and continuing contact with the other parent, in addition to those factors already considered in providing for the child's residential schedule.

Factor (i), which is to be given the greatest weight of all the factors, is split into two factors and now only requires the court to consider the quality of the child's relationship with each parent. Whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child is now considered separately as factor (ii), not part of factor (i), and given less weight.

The phrase "the best interests of the child" is added to the statutory language addressing residential provisions. The court must apply this standard in such decisions.

Appropriation: None.

Fiscal Note: Not requested.

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