

Legislative Analysis



JOINT CUSTODY

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House Bill 5267

Sponsor: Rep. Leslie Mortimer

Committee: Family and Children Services

Complete to 10-26-06

A SUMMARY OF HOUSE BILL 5267 AS INTRODUCED 10-06-06

House Bill 5267 would amend The Child Custody Act so that in cases of custody disputes between parents, the court would have to order joint custody unless either of the following applied:

- The court determines by clear and convincing evidence that a parent is unfit, unwilling, or unable to care for the child,
- A parent moves his or her residence outside the school district the child has attended during the previous one-year period before the initiation of the action and is unable to maintain the child's school schedule without interruption.

School Schedule Exception. Under the bill, if the parent is unable to maintain the child's school schedule, the court would order the parents to submit to mediation to determine a custody agreement that maximizes both parents' ability to participate equally in a relationship with their child while accommodating the child's school schedule. A parent could restore joint custody by demonstrating the ability to maintain the child's school schedule.

The bill would modify the definition of joint custody to mean an order of the court specifying (1) that the child resides alternately for specific and substantially equal periods of time with each parent, and (2) the parents share decision-making authority as to all of the important decisions affecting the welfare of the child, including the child's education, religious training, and medical treatment. (Proposed amendments to the definition are underlined.)

The bill also would amend the existing provision in the Child Custody Act that requires the court to advise parents of the availability of joint custody and that allows either parent to request joint custody, with the court to determine if joint custody is in the best interest of the child. The changes incorporate language from the new provision described above, including language about school schedules and about parents sharing custody "alternately for specific and substantially equal periods of time." Currently, the act says that if parents agree, the court will award joint custody *unless the court determines on the record, based upon clear and convincing evidence, that joint custody is not in the best interest of the child.* House Bill 5267 would say, instead, that if parents agree in writing on joint custody, the court "shall grant that custody arrangement," and the bill deletes the provision in italics above.

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

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