

Legislative Analysis



JOINT CUSTODY

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House Bill 4564

Sponsor: Rep. Glenn Steil, Jr.

1st Committee: Families and Children's Services

2nd Committee: Judiciary

Complete to 5-6-08

A SUMMARY OF HOUSE BILL 4564 AS INTRODUCED 4-5-07

The bill 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.

Definition of "joint custody". 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, but not limited to, the child's education, religious training, and medical treatment. (Proposed amendments to the definition are underlined.)

General revisions. Currently, in a custody dispute between parents, the parents must be advised of joint custody. A court must consider an award of joint custody if either parent requests it, and must state on the record the reasons for granting or denying a request. The bill would apply this provision to disputes in which the court could not order joint custody because it determined a parent was unfit, unwilling, or unable to care for the child or a parent moved his or her residence outside of the child's school district.

The act currently allows a court to consider joint custody in other cases and enumerates factors the court must consider when determining if joint custody was in the best interest

of the child. One factor the court must consider is whether the parents will be able to cooperate and generally agree concerning important decisions affecting the welfare of the child. The bill would strike the word "cooperate" and replace it with the phrase "maintain the child's school schedule."

Currently, the act requires a court to award joint custody if the parents agree to it, unless the court determines that joint custody was not in the best interest of the child. Instead, the bill would specify that if the parents agree in writing to a custody arrangement, the court would grant that custody arrangement.

Currently, the act allows a court, if it awards joint custody, to include in its award a statement regarding when the child would reside with each parent; the court may provide that physical custody be shared by the parents in a manner to assure the child continuing contact with both parents. Instead, the bill would require the court to include in an award for joint custody a statement regarding when the child resides with each parent, and would require that the court provide that physical custody be shared by the parents alternately for specific and substantially equal periods of time.

MCL 722.26a

FISCAL IMPACT:

The bill would have no fiscal impact on the Department of Human Services.

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