

HCS HB 1974 -- CHILD CUSTODY ARRANGEMENTS

SPONSOR: Murphy

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 8 to 1 with 1 voting Present.

The following is a summary of the House Committee Substitute for HB 1974.

This bill creates a rebuttable presumption that the best interest of the child is for the court to award equal or approximately equal parenting time to each parent. The presumption can be rebutted by a preponderance of the evidence to the contrary of all relevant factors, including the parents reaching an agreement on all issues related to custody or the court finding that a pattern of domestic violence has occurred.

The bill also declares that the court should not consider solely the fact that a parent is home schooling their child when deciding custody of the child.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPOSERS: Supporters say that this bill is about shared parenting. Part of the problem we have is fatherless homes, but what we do in the courts is presume that the father is not able to be a child's caregiver. This leaves it more of an equal playing field. Arkansas passed a clear and convincing standard this year, and it applies to the entire law here. What would be good is to continue with the clear and convincing standard for all parts of the bill other than the domestic violence part. They do not give anything to anyone; they only take away rights and abilities from parents and children. So the standard should continue to be high for taking away parenting rights. That is what passed in Arkansas. Parents are spending thousands and thousands of dollars just to have a relationship with their children. Domestic violence is a secondary issue; the relationship between a child and a parent is paramount here. This coincides with what the Missouri constitution says, which is that people need to be treated equally. The bill has passed out of this committee and the House for the last four years. Families and children are being harmed. With everything we know about fatherlessness and the destruction of the family, why would we tell a fit and willing parent to spend less time with his or her kid? This codifies what is already being done in most courts, and it does not take away discretion from the judges.

Testifying for the bill were Representative Murphy; Jason R Newell; Kenneth Goins; Arnie C. AC Dienoff; Jeremy Roberts; Linda Reutzler; and Americans For Equal Shared Parenting.

OPPONENTS: Those who oppose the bill say that the clear and convincing standard is way too high. The statute, as it reads already, promotes shared parenting, and that there would be frequent and meaningful time between parents and children. They should not elevate the wishes of the parents above the best interests of the children. And sometimes it cannot be defined as domestic violence but it would still amount to harm to the child. Kentucky has a preponderance of the evidence standard. The factors in the bill should be amended so the judge can consider other things like the motivation of the litigants as well as the distance between the parents. The factors have not changed since 1971 and things have changed since then and the judge might want to consider different things.

Testifying against the bill was Carla Holste.

OTHERS: Others testifying on the bill say that, as long as the domestic violence piece stays on the bill, they will stay neutral. However, other states have these issues where courts have confusion on how to implement these pieces. Abusers are not good candidates for shared parenting, and it is good the domestic violence piece is in there but it is only as good as its implementation. There needs to be some sort of enforcement of the domestic violence piece like an investigation. Clear and convincing comes from a Supreme Court case in the 1980s. And it should be a heightened standard to take away a parent's parental rights.

Testifying on the bill were Jennifer Carter Dochler, Missouri Coalition Against Domestic And Sexual Violence (MoCADSV); Rebekah Odell Perry, Synergy Services; and Tressa Price.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.