

HCS HB 1765 -- CHILD CUSTODY

SPONSOR: Swan

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 11 to 5.

The following is a summary of the House Committee Substitute for HB 1765.

Currently, the court must determine custody that is in the best interest of the child. This bill establishes a rebuttable presumption, except in paternity actions, that an award of equal or approximately equal parenting time is in the best interest of the child, unless a preponderance of the evidence exists, as specified in these provisions. The presumption can be rebutted if the court determines that the parents have reached an agreement on all issues related to custody or if the court finds that a pattern of domestic violence has occurred. If the parties have not reached an agreement, one of the factors a court must consider when determining custody is the child's adjustment to his or her home or the child's proximity to his or her school and community.

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

PROPONENTS: Supporters say that this is a follow up to shared parenting law that passed in 2016. It is a problem throughout the entire state. The rebuttable presumption language is needed to make sure that the intent of the last shared parenting bill goes into effect as intended. One witness testified that she witnessed emotional turmoil while supporting her step-siblings. Her sisters also struggle with emotional bonding with the family because the system, not their family, failed them. She wants the bill passed so that other families do not have to go through this. How will this affect the administration of justice? This helps manage client expectations and it helps attorneys explain to their clients what to expect and it can help them settle cases efficiently. Supporters like the idea of a reverse family access motion, where one parent does not do what the court order says and there should be a remedy for parents to get it enforced. What about all the parents who are refused joint custody even though they do everything right? Certain aspects of the legislation need to be articulated and clarified. Joint custody agreements should be easier to come by.

Testifying for the bill were Representative Swan; Paul Nicks, Nicko Media; Ken D. Goins, Esq; Linda Reutzel; Maddie Conner.

OPPONENTS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say that Wisconsin did a study about this. In the cases where domestic violence was a presumption that rebutted the custody, only 8% of them had domestic violence noted on the record and accommodations made. Kentucky is the only other state that has a 50/50 rebuttable presumption structure. Most parents are good parents and most kids want equal time with their parents. There is already a form that someone can petition the court if one parent is not respecting the court ordered custody.

Testifying on the bill were Missouri Coalition Against Domestic and Sexual Violence; Americans for Equal Shared Parenting; and Jessica Kruse, Christian County Missouri Courts.