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H.369

Introduced by Representatives Masland of Thetford and Mrowicki of Putney
Referred to Committee on
Date:
Subject: Domestic relations; annulment and divorce; child custody and support
Statement of purpose of bill as introduced: This bill proposes to declare that it is the public policy of the State to encourage parents to share in the rights and responsibilities of raising their children after the parents have separated or divorced, to create a rebuttable presumption that shared parental rights and responsibilities are in the best interests of the child, and to amend the factors a court considers in determining the best interests of a child.

An act relating to parental rights and responsibilities

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 15 V.S.A. § 650 is amended to read:

§ 650. LEGISLATIVE FINDINGS AND PURPOSE

~~The legislature~~ General Assembly finds and declares as public policy that ~~after parents have separated or dissolved their civil marriage,~~ it is in the best interests of ~~their minor child~~ children to have the opportunity for maximum continuing physical and emotional contact with both parents and encourages parents to share in the rights and responsibilities of raising their children after

1 the parents have separated or divorced, unless direct physical harm or
2 significant emotional harm to the child or a parent is likely to result from such
3 contact. The ~~legislature~~ General Assembly further finds and declares as public
4 policy that parents have the responsibility to provide child support, and that
5 child support orders should reflect the true costs of raising children and
6 approximate insofar as possible the standard of living the child would have
7 enjoyed had the family remained intact.

8 Sec. 2. 15 V.S.A. § 664 is amended to read:

9 § 664. DEFINITIONS

10 As used in this subchapter:

11 (1) “Parental rights and responsibilities” means the rights and
12 responsibilities related to a child’s physical living arrangements, education,
13 medical and dental care, religion, travel, and any other matter involving a
14 child’s welfare and upbringing.

15 ~~(A)~~(2) “Legal responsibility” means the rights and responsibilities to
16 determine and control various matters affecting a child’s welfare and
17 upbringing, other than routine daily care and control of the child. These
18 matters include but are not limited to education, medical and dental care,
19 religion, and travel arrangements. ~~Legal responsibility may be held solely or~~
20 ~~may be divided or shared.~~

1 ~~(B)(3)~~ “Physical responsibility” means the rights and responsibilities
2 to provide routine daily care and control of the child ~~subject to the right of the~~
3 ~~other parent to have contact with the child. Physical responsibility may be~~
4 ~~held solely or may be divided or shared pursuant to the parenting plan.~~

5 ~~(2)~~ “Parent child contact” means the right of a parent who does not have
6 ~~physical responsibility to have visitation with the child.~~

7 Sec. 3. 15 V.S.A. § 665 is amended to read:

8 § 665. RIGHTS AND RESPONSIBILITIES ORDER; PARENTING PLAN;

9 BEST INTERESTS OF THE CHILD

10 (a) In an action under this chapter, the court shall ~~make issue~~ issue an order
11 concerning parental rights and responsibilities ~~of~~ and a parenting plan for any
12 minor child of the parties. ~~The court may order parental rights and~~
13 ~~responsibilities to be divided or shared between the parents on such terms and~~
14 ~~conditions as serve the best interests of the child. When the parents cannot~~
15 ~~agree to divide or share parental rights and responsibilities, the court shall~~
16 ~~award parental rights and responsibilities primarily or solely to one parent~~
17 There shall be a rebuttable presumption that shared parental rights and
18 responsibilities are in the best interests of the child.

19 (b) In making an order under this section, the court shall be guided by the
20 best interests of the child and shall consider at least the following factors:

1 (1) the relationship of the child with each parent and the ability and
2 disposition of each parent to provide the child with love, affection, and
3 guidance;

4 (2) the ability and disposition of each parent to ~~assure~~ ensure that the
5 child receives adequate food, clothing, medical care, other material needs, and
6 a safe environment;

7 (3) the ability and disposition of each parent to meet the child's present
8 and future developmental needs;

9 (4) the quality of the child's adjustment to the child's ~~present housing,~~
10 school, and community and the potential effect of any change;

11 (5) the ability and disposition of each parent to support and foster a
12 positive relationship and frequent and continuing contact with the other parent,
13 including physical, written, telephonic, and electronic contact, except where
14 contact will result in harm to the child or to a parent;

15 (6) ~~the quality of the child's relationship with the primary care provider,~~
16 ~~if appropriate given the child's age and development; [Repealed.]~~

17 (7) the relationship of the child with any other person who may
18 significantly affect the child;

19 (8) the ability and disposition of the parents to communicate, cooperate
20 with each other, and make joint decisions concerning the ~~children where~~
21 ~~parental rights and responsibilities are to be shared or divided~~ child; and

