

House Research Act Summary

CHAPTER: 444

SESSION: 2000 Regular Session

TOPIC: Parenting Plans and Terminology

Date: May 1, 2000

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Overview

This act allows (1) parents by their own agreement, or (2) a court on its own motion in some instances to replace traditional custody and visitation orders with a parenting plan that deals with (1) decision making, and (2) the time each parent spends with the child. It applies to marriage dissolution and other child custody and visitation matters.

The act also allows parties to agree on a standard for modifying custody (article 1, section 5) and clarifies the process of seeking visitation or custody for a man who has filed a recognition of parentage (article 2, sections 6 and 8).

ARTICLE 1

Parenting Plans and Parenting Time; Custody Modification

Section

- 1 **Parenting time.** Adds a definition of "parenting time" to the marriage dissolution statute. Provides that the term means the time a parent spends with a child, regardless of who is custodian of the child.
- 2 **Temporary support and maintenance.** States that temporary support and maintenance may be ordered while a parenting plan is being developed.
- 3 **Parenting plans.** Adds a new section of statute on parenting plans.
 - Subd. 1. Definition.** For purposes of this section, "domestic abuse" has the meaning given in the order for protection statute.
 - Subd. 2. Plan elements.** Requires a parenting plan to include (1) a schedule for each parent's time with the child; (2) a designation of decision making responsibilities about the child; and (3) a dispute resolution method.

Allows a plan to include other issues about the child the parents may agree to.

Lets parents agree on alternative terms for the statutory terms "legal custody" and "physical custody" if the terms are defined in the plan.

Subd. 3. Creating parenting plan; alternative. On both parties' request, a parenting plan must be created unless the court makes detailed findings that the proposed plan is not in the child's best interests. In addition, the court may create a plan on its own motion, unless it finds a parent has committed domestic abuse against a parent or child involved in the proceeding.

If the court creates a plan on its own motion, it cannot use alternative terminology unless the parties agree to the terminology.

Parties cannot be required to create a plan as part of a child support modification order or as part of an action to set support where a child receives public assistance.

If a parenting plan is not entered, traditional visitation and parenting time orders must be entered.

Subd. 4. Custody designation. The judgment and decree in a parenting plan case must designate whether the parents have joint legal or physical custody or both; or it not, which parent has legal or physical custody or both. Designation is solely for purposes of enforcing laws in this state or another state or country that require such designation.

Subd. 5. Role of court. If the court is considering a parenting plan, authorizes the court to require each parent to submit a plan any time before entry of the final judgment and decree. Lets the court order an evaluation and provides it should consider appointing a guardian ad litem if the parents seek court assistance in deciding the parents' schedule with the child or the designation of decision-making responsibilities about the child. Requires that a parenting plan be based on statutory best interests factors if it is entered on the court's own motion, after a contested hearing, or is reviewed by the court pursuant to a stipulation.

Subd. 6. Restrictions on preparation of parenting plan. Prohibits requiring dispute resolution processes other than court in the preparation of a parenting plan if a parent is alleged to have committed domestic abuse toward a party or a child involved in the proceeding. Requires the court to consider having a guardian ad litem and parenting plan evaluator in these cases.

Prohibits shared decision making or dispute resolution processes other than court in a parenting plan if (1) section 518.179 (parent convicted of specified crimes against a family or household member) applies; or (2) either parent has engaged in domestic abuse, emotional abuse of a child, or abandonment.

Subd. 7. Moving to another state. Lets parents include in a plan an agreement to use statutory best interests factors to govern a decision concerning moving a child out of state if (1) both parents had counsel, or (2) the court finds the parents were fully informed, the agreement was voluntary, and parents were aware of its implications.

Subd. 8. Allocation of expenses. Provides that parents are subject to the statutory support guidelines when preparing a parenting plan. Lets parents allocate expenses of the child in the plan. Makes the allocation an enforceable contract of the parents.

Subd. 9. Modification of parenting plan. Lets parents modify the schedule of their time with the child by agreement. Requires that a modification be confirmed by court order to be enforceable. Provides that a motion to modify decision-making provisions or the time each parent has with the child is governed by the time periods in the custody modification statute.

Lets parties agree to apply the best interests standard modification that would change the child's primary residence if (1) both parties had counsel when the plan was made, or (2) the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications.

If the parties do not agree to use the best interests standard, the endangerment standard in the existing custody statute applies.

- 4 **Modification of parenting plan or order for parenting time.** Applies the best interests standard to court modification of (1) the decision-making provisions of a parenting plan, or (2) an order granting or denying parenting time, if modification will not change the child's primary residence. Strikes "visitation" in current law and replaces it with "parenting time." Also, requires the court to consider use of an independent neutral exchange location for parenting time if an existing order for protection covers the parties.
- 5 **Modification of order.** Amends the custody modification statute. Inserts references to "parenting plan" and "parenting time." Lets parties agree, in a writing approved by a court, to apply the statutory best interests standard to proposed modifications of parenting plans that would change the child's primary residence.
- For custody modification agreements entered on or after April 28, 2000, the best interests standard may be used only if (1) both parties had counsel at the time of the agreement or (2) the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications.
- 6 **Replacing certain orders.** Provides a way for parents to get parenting plans if they have custody and visitation orders that were entered before the act takes effect (April 28, 2000). Requires the court to enter a parenting plan if both parents request one, unless the court makes detailed findings that a plan is not in the child's best interests. Allows the court to enter a plan if only one party requests it. Requires the court to use the endangerment standard in the custody modification statute when deciding whether to replace an existing order that would change the child's primary residence. Requires the court to use the best interests standard when considering a motion to replace an existing order that (1) affects decision making responsibilities toward the child or (2) changes the time each parent spends with the child, but does not change the child's primary residence.
- 7 **Relief by the court.** Amends the order for protection statute. Prohibits entering a parenting plan as part of an order for protection.
- 8 **Effective date.** The part of section 5 dealing with custody modification agreements is effective April 28, 2000, and applies to written agreements approved by a court before, on, or after that date.
- The rest of the article is effective January 1, 2001.

ARTICLE 2

Conforming Terminology; Other Issues

- 1-49 **Conforming amendments.** Sections 1 to 49 insert the term "parenting time" wherever the term "visitation" appears in prior statutes. Section 1 also makes a change consistent with article 1, section 4.
- 6 **Custody and parenting time with children born outside marriage.** Amends the law on how an unmarried father who has filed a recognition of parentage (ROP) can get custody or parenting time. States that an adjudication of parentage is not necessary to start a custody or parenting time proceeding in this situation.
- 8 Technical. Same as section 6.
- 50 **Effective date.** The provisions of sections 6 and 8 relating to commencing certain actions without an adjudication of parentage are effective August 1, 2000.
- The rest of the article is effective January 1, 2001.