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SFA**BILL ANALYSIS**

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Senate Bill 33 (as introduced 1-28-97)

Sponsor: Senator Joel D. Gougeon

Committee: Families, Mental Health and Human Services

Date Completed: 2-10-97

CONTENT

The bill would amend the Child Custody Act to create a presumption of shared parental responsibility and provide for parenting plans in child custody cases. The bill specifies that it could not be used as a basis to petition for a modification of an order governing child custody or parenting time that was issued before the bill's effective date.

"Shared parental responsibility" would mean an order of the court that specified that the parents would have to share decision-making authority and responsibility for the important decisions affecting the child's welfare and that the child would have to reside with each parent for specified periods of time. The bill would not require, however, that the child reside with each parent for an equal or nearly equal amount of time during any given time period.

Joint Custody/Shared Parental Responsibility

The bill would delete current provisions concerning joint custody and, instead, create a presumption of shared parental responsibility. Under the Act's current provisions, parents in a custody dispute must be advised of joint custody. At the request of either parent, the court must consider an award of joint custody and state on the record the reasons for granting or denying a request for joint custody. The court must determine whether joint custody is in the best interest of the child. If the parents agree on joint custody, the court must award joint custody unless it determines on the record, based upon clear and convincing evidence, that joint custody is not in the child's best interests. If the court awards joint custody, it may include in the award a statement regarding when the child is to reside with each parent.

Under the bill, instead, the court would have to presume that shared parental responsibility should be ordered and the parents would have to be advised of that presumption. The court would have to order shared parental responsibility unless it determined on the record that shared parental responsibility was not in the best interests of the child. The court would have to state on the record the reasons for granting or denying shared parental responsibility. If the court awarded shared parental responsibility, it would have to include in its award a statement regarding when the child would have to reside with each parent.

The bill specifies that it would not prohibit the court from awarding joint legal custody that ordered the parents to share decision-making authority and responsibility as to the important decisions affecting the child's welfare, without making an award of shared parental responsibility.

Parenting Plan

If the parents agreed to a parenting plan other than shared parental responsibility, the bill's

presumption would not apply. In that case, the court would have to order the parenting plan as provided in the parents' agreement, unless the court determined on the record, based on clear and convincing evidence, that the parenting plan was not in the child's best interests.

The parents could submit to the court a parenting plan, which would have to include provisions regarding at least all of the following:

- The child's residence; education, including postsecondary education; religious affiliation; and medical care.
- Each parent's decision-making authority.
- Other related issues consistent with the Act, including proposed alternative dispute resolution mechanisms to resolve further disputes without litigation.

MCL 722.23 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Ortiz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.