

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

BILL NO.

House Bill 1639

PRINTER'S NO.

4468

AMOUNT

No Fiscal Impact

FUND

General

DATE INTRODUCED

June 8, 2009

PRIME SPONSOR

Representative Manderino

HISTORY OF BILLReferred to JUDICIARY, June 8, 2009Reported as amended, May 4, 2010

First consideration, May 4, 2010

Laid on the table, May 4, 2010

Removed from table, May 5, 2010

Re-committed to APPROPRIATIONS, May 5, 2010Re-reported as committed, June 9, 2010Second consideration, with amendments, June 9, 2010

(Remarks see House Journal Page), June 9, 2010

Third consideration and final passage, June 14, 2010 (191-0)

In the Senate

Referred to JUDICIARY, June 15, 2010Reported as amended, Sept. 21, 2010

First consideration, Sept. 21, 2010

Second consideration, Sept. 22, 2010

Re-referred to APPROPRIATIONS, Sept. 22, 2010Re-reported as amended, Oct. 12, 2010**DESCRIPTION AND PURPOSE OF BILL**

HB 1639 amends Titles 23 (Domestic Relations) and 42 (Judiciary and Judicial Procedure) relating to child custody provisions. The changes to Title 42 are technical in nature but the changes proposed to Title 23 differ from current law in numerous areas. Section 4346, Chapter 53 and Subchapter A headings and sections 5301 through 5315 of Title 23 are repealed and a new Chapter 53 is added.

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Definitions regarding custody have been added or amended to include qualifying language relating to the actual time spent with the child. The bill lists a number of factors which the court is to use, giving weighted consideration to those factors which affect the safety of the child, when determining custody and identifies the types of custody that the court may award if it is in the best interest of the child. A party who willfully fails to comply with any custody order may be adjudged in contempt and the bill lists penalties for such contempt. The legislation identifies who may file an action for any form of physical custody or legal custody, including the right of individuals standing in loco parentis, and identifies the situations where grandparents and great-grandparents may file an action for partial physical custody or supervised physical custody. Guidelines for presumptions in custody cases are also outlined in the bill.

The bill includes a variety of offenses to be considered by the court before making any order of custody and provides for initial evaluation and counseling when necessary. In a contested custody proceeding, the court may require the parties to submit parenting plans for the care and custody of the child to aid the court in resolving the custody dispute. The legislation includes the specific items to be addressed in such a plan. The court may on its own motion or the motion of a party appoint a guardian ad litem to represent the child in the action and the powers and duties of the guardian ad litem are listed. In addition, the court may appoint counsel to represent the child if the court determines that the appointment will assist in resolving the issues in the custody proceeding. The legislation also addresses relocation including: notice; time frames; counter-affidavit to object to proposed relocation and the modification of a custody order; and the relocation factors the court shall consider in determining whether to grant a proposed relocation.

Act is effective in 60 days.

FISCAL IMPACT:

The changes to current law in this legislation are not anticipated to result in increased costs to the State.