



State of Tennessee

PUBLIC CHAPTER NO. 617

SENATE BILL NO. 1488

By Bell

Substituted for: House Bill No. 1851

By Harry Brooks, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 36, relative to domestic relations.

WHEREAS, the legislature has determined that subsections 36-6-106(a), 36-6-404(b), and 36-6-108(c) and (e) of the Tennessee Code Annotated establish different factors pertaining to judicial review of custodial arrangements and the establishment of residential schedules for minor children;

WHEREAS, the factors listed in each section differ slightly in their specifics, causing confusion and inconsistent application of the law; and

WHEREAS, the factors that determine custodial arrangements or establish a residential schedule for minor children should be consistent; and

WHEREAS, the legislature has further determined that the wording of Tennessee Code Annotated, subdivision 36-4-106(d)(5) concerning relocation of a parent also causes confusion and inconsistent application of the law; and

WHEREAS, the legislature has further determined that the wording of Tennessee Code Annotated, subdivision 36-6-101(a)(3)(A) concerning the rights of parents also causes confusion and inconsistent application of the law; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-4-106(d)(5), is amended by deleting the language "more than one hundred (100) miles from the marital home" and by substituting instead the language "more than fifty (50) miles from the marital home".

SECTION 2. Tennessee Code Annotated, Section 36-6-101(a)(3), is amended by adding a new subdivision (C) as follows:

All parenting plans submitted to the court by one (1) party only shall contain the notarized signature of that party. All parenting plans submitted to the court by both parties jointly shall contain the notarized signature of both parties.

SECTION 3. Tennessee Code Annotated, Section 36-6-101(a)(3)(A), is amended by deleting subdivisions (i)-(ix) and by substituting instead the following:

(i) The right to unimpeded telephone conversations with the child at least twice a week at reasonable times and for reasonable durations. The parent exercising parenting time shall furnish the other parent with a telephone number where the child may be reached at the days and time specified in a parenting plan or other court order or, where days and times are not specified, at reasonable times;

(ii) The right to send mail to the child which the other parent shall not destroy, deface, open or censor. The parent exercising parenting time shall deliver all letters, packages and other material sent to the child by the other parent as soon as received and shall not interfere with their delivery in any way, unless otherwise provided by law or court order;

(iii) The right to receive notice and relevant information as soon as practicable but within twenty-four (24) hours of any hospitalization, major illness or injury, or death of the child. The parent exercising parenting time when such event occurs shall notify the other parent of the event and shall provide all relevant healthcare providers with the contact information for the other parent;

(iv) The right to receive directly from the child's school any educational records customarily made available to parents. Upon request from one parent, the parent enrolling the child in school shall provide to the other parent as soon as available each academic year the name, address, telephone number and other contact information for the school. In the case of children who are being homeschooled, the parent providing the homeschooling shall advise the other parent of this fact along with the contact information of any sponsoring entity or other entity involved in the child's education, including access to any individual student records or grades available online. The school or homeschooling entity shall be responsible, upon request, to provide to each parent records customarily made available to parents. The school may require a written request which includes a current mailing address and may further require payment of the reasonable costs of duplicating such records. These records include copies of the child's report cards, attendance records, names of teachers, class schedules, and standardized test scores;

(v) Unless otherwise provided by law, the right to receive copies of the child's medical, health or other treatment records directly from the treating physician or healthcare provider. Upon request from one parent, the parent who has arranged for such treatment or health care shall provide to the other parent the name, address, telephone number and other contact information of the physician or healthcare provider. The keeper of the records may require a written request including a current mailing address and may further require payment of the reasonable costs of duplicating such records. No person who receives the mailing address of a requesting parent as a result of this requirement shall provide such address to the other parent or a third person;

(vi) The right to be free of unwarranted derogatory remarks made about such parent or such parent's family by the other parent to or in the presence of the child;

(vii) The right to be given at least forty-eight (48) hours notice, whenever possible, of all extracurricular school, athletic, church activities and other activities as to which parental participation or observation would be appropriate, and the opportunity to participate in or observe them. The parent who has enrolled the child in each such activity shall advise the other parent of the activity and provide contact information for the person responsible for its scheduling so that the other parent may make arrangements to participate or observe whenever possible, unless otherwise provided by law or court order;

(viii) The right to receive from the other parent, in the event the other parent leaves the state with the minor child or children for more than forty-eight (48) hours, an itinerary which shall include the planned dates of departure and return, the intended destinations and mode of travel and telephone numbers. The parent traveling with the child or children shall provide this information to the other parent so as to give that parent reasonable notice; and

(ix) The right to access and participation in the child's education on the same bases that are provided to all parents including the right of access to the child during lunch and other school activities; provided, that the participation or access is legal and reasonable; however, access must not interfere with the school's day-to-day operations or with the child's educational schedule.

SECTION 4. Tennessee Code Annotated, Section 36-6-106(a), is amended by deleting the language "consistent with the factors set out in subdivisions (a)(1)-(10)", and by substituting instead the language "consistent with the factors set out in this subsection (a)"; and is further amended by deleting subdivisions (1)-(10) and by substituting instead the following:

(1) The strength, nature, and stability of the child's relationship with each parent, including whether one parent has performed the majority of parenting responsibilities relating to the daily needs of the child;

(2) Each parent's or caregiver's past and potential for future performance of parenting responsibilities, including the willingness and ability of each of the parents and caregivers to facilitate and encourage a close and continuing parent-child relationship between the child and both of the child's parents, consistent with the best interest of the child. In determining the willingness of each of the parents and caregivers to facilitate and encourage a close and continuing parent-child relationship between the child and both of the child's parents, the court shall consider the likelihood of each parent and caregiver to honor and facilitate court ordered parenting arrangements and rights, and the court shall further consider any history of either parent or any caregiver denying parenting time to either parent in violation of a court order;

(3) Refusal to attend a court ordered parent education seminar may be considered by the court as a lack of good faith effort in these proceedings;

(4) The disposition of each parent to provide the child with food, clothing, medical care, education and other necessary care;

(5) The degree to which a parent has been the primary caregiver, defined as the parent who has taken the greater responsibility for performing parental responsibilities;

(6) The love, affection, and emotional ties existing between each parent and the child;

(7) The emotional needs and developmental level of the child;

(8) The moral, physical, mental and emotional fitness of each parent as it relates to their ability to parent the child. The court may order an examination of a party under Rule 35 of the Tennessee Rules of Civil Procedure and, if necessary for the conduct of the proceedings, order the disclosure of confidential mental health information of a party under § 33-3-105(3). The court order required by § 33-3-105(3) must contain a qualified protective order that limits the dissemination of confidential protected mental health information to the purpose of the litigation pending before the court and provides for the return or destruction of the confidential protected mental health information at the conclusion of the proceedings;

(9) The child's interaction and interrelationships with siblings, other relatives and step-relatives, and mentors, as well as the child's involvement with the child's physical surroundings, school, or other significant activities;

(10) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;

(11) Evidence of physical or emotional abuse to the child, to the other parent or to any other person. The court shall, where appropriate, refer any issues of abuse to juvenile court for further proceedings;

(12) The character and behavior of any other person who resides in or frequents the home of a parent and such person's interactions with the child;

(13) The reasonable preference of the child if twelve (12) years of age or older. The court may hear the preference of a younger child upon request. The preference of older children should normally be given greater weight than those of younger children;

(14) Each parent's employment schedule, and the court may make accommodations consistent with those schedules; and

(15) Any other factors deemed relevant by the court.

SECTION 5. Tennessee Code Annotated, Section 36-6-108(c), is amended by deleting the language: "The court shall consider all relevant factors including the following where applicable:" and by substituting instead the language "The court shall consider all relevant factors including those factors found in § 36-6-106(a)(1)-(15)."; and is further amended by deleting subdivisions (1)-(11).

SECTION 6. Tennessee Code Annotated, Section 36-6-108(e), is amended by deleting the language "the court shall make a custody determination and shall consider all relevant factors including the following where applicable:" and by substituting instead the language "the court shall consider all relevant factors including those factors found in § 36-6-106(a)(1)-(15)."; and is further amended by deleting subdivisions (1)-(11).

SECTION 7. Tennessee Code Annotated, Section 36-6-404(b), is amended by deleting the language "If the limitations of § 36-6-406 are not dispositive of the child's residential schedule, the court shall consider the following factors:" and by substituting instead the language "If the limitations of § 36-6-406 are not dispositive of the child's residential schedule, the court shall consider the factors found in § 36-6-106(a)(1)-(15)."; and is further amended by deleting subdivisions (1)-(16).

SECTION 8. This law shall take effect July 1, 2014, the public welfare requiring it.

SENATE BILL NO. 1488

PASSED: March 13, 2014



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 4th day of April 2014



BILL HASLAM, GOVERNOR