

HOUSE BILL NO. 730

INTRODUCED BY L. SCHUBERT, V. RICCI, K. LOVE, C. HINKLE, M. NOLAND

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PARENTING PROCEEDING LAWS INVOLVING THE BEST INTEREST OF A CHILD WHO IS TRANSITIONING GENDERS; PROVIDING THAT A PARENT'S SUPPORT OF A CHILD'S GENDER TRANSITION MUST BE CONSIDERED NOT IN THE BEST INTERESTS OF THE CHILD; PROVIDING THAT A PARENT'S OPPOSITION TO A CHILD'S GENDER TRANSITION MAY NOT BE CONSIDERED AS BEING AGAINST THE BEST INTERESTS OF THE CHILD; AMENDING SECTION 40-4-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-4-212, MCA, is amended to read:

"40-4-212. Best interest of child. (1) The court shall determine the parenting plan in accordance with the best interest of the child. The court shall consider all relevant parenting factors, which may include but are not limited to:

- (a) the wishes of the child's parent or parents;
- (b) the wishes of the child;
- (c) the interaction and interrelationship of the child with the child's parent or parents and siblings and with any other person who significantly affects the child's best interest;
- (d) the child's adjustment to home, school, and community;
- (e) the mental and physical health of all individuals involved;
- (f) physical abuse or threat of physical abuse by one parent against the other parent or the child;
- (g) chemical dependency, as defined in 53-24-103, or chemical abuse on the part of either parent;
- (h) continuity and stability of care;
- (i) developmental needs of the child;
- (j) whether a parent has knowingly failed to pay birth-related costs that the parent is able to pay, which is considered to be not in the child's best interests;

1 (k) whether a parent has knowingly failed to financially support a child that the parent is able to
2 support, which is considered to be not in the child's best interests;

3 (l) regarding a child's gender transition or intention to transition genders:

4 (i) whether a parent has knowingly encouraged or actively supported the child's transitioning,
5 which must be considered not in the child's best interests and be afforded similar consideration as an act of
6 physical abuse against the child; or

7 (ii) whether a parent has opposed the child's transitioning, which may not be considered as being
8 against the child's best interests.

9 (l)(m) whether the child has frequent and continuing contact with both parents, which is considered to
10 be in the child's best interests unless the court determines, after a hearing, that contact with a parent would be
11 detrimental to the child's best interests. In making that determination, the court shall consider evidence of
12 physical abuse or threat of physical abuse by one parent against the other parent or the child, including but not
13 limited to whether a parent or other person residing in that parent's household has been convicted of any of the
14 crimes enumerated in 40-4-219(8)(b).

15 (m)(n) adverse effects on the child resulting from continuous and vexatious parenting plan
16 amendment actions.

17 (2) When determining the best interest of the child of a parent in military service, the court shall
18 consider all relevant parenting factors provided in subsection (1) and may not determine the best interest of the
19 child based only upon the parent's military service.

20 (3) A de facto parenting arrangement, in the absence of a prior parenting decree, does not require
21 the child's parent or parents to prove the factors set forth in 40-4-219.

22 (4) The following are rebuttable presumptions and apply unless contrary to the best interest of the
23 child:

24 (a) A parenting plan action brought by a parent within 6 months after a child support action against
25 that parent is vexatious.

26 (b) A motion to amend a final parenting plan pursuant to 40-4-219 is vexatious if a parent seeks to
27 amend a final parenting plan without making a good faith effort to comply with the provisions of the parenting
28 plan or with dispute resolution provisions of the final parenting plan."

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