



February 17, 1999

HOUSE BILL No. 2058

DIGEST OF HB2058 (Updated February 16, 1999 12:44 pm - DI 76)

Citations Affected: IC 31-9; IC 31-17.

Synopsis: Presumptive joint legal custody. Establishes a rebuttable presumption that joint legal custody is in the best interests of a child in dissolution of marriage cases. (Under current law an award of joint legal custody is discretionary with the court.) Provides that if a party seeks to rebut the presumption that joint legal custody is in the child's best interest, the court shall consider whether the persons awarded joint custody are able to communicate and cooperate in advancing the child's welfare. Eliminates other factors that a court currently considers in determining whether to order joint legal custody. Specifies that an award of joint legal custody does not require an equal division of the physical custody of the child. Makes conforming changes.

Effective: July 1, 1999.

**Hasler, Linder, Dvorak, Steele,
Pond, Lytle, Murphy, Young D,
Adams T**

January 27, 1999, read first time and referred to Committee on Courts and Criminal Code.
February 19, 1999, reported — Do Pass.

HB 2058—LS 8198/DI 76+



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February 17, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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HOUSE BILL No. 2058

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-9-2-67 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 67. "Joint legal
3 custody", for purposes of IC 31-17-2-13 ~~IC 31-17-2-14~~, and
4 IC 31-17-2-15, means that the persons awarded joint custody will share
5 authority and responsibility for the major decisions concerning the
6 child's upbringing, including the child's education, health care, and
7 religious training. **However, the term does not require an equal**
8 **division of physical custody of the child.**
- 9 SECTION 2. IC 31-17-2-13 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. ~~The court may~~
11 ~~award legal custody of a child jointly if the court finds that~~ **There is a**
12 **rebuttable presumption that** an award of joint legal custody would be
13 in the best interest of the child.
- 14 SECTION 3. IC 31-17-2-15 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. ~~In determining~~
16 ~~whether an award of~~ **If a party seeks to rebut the presumption that**
17 **an award of** joint legal custody under section 13 of this chapter would

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1 be in the best interest of the child, the court shall consider it a matter
2 of primary, but not determinative, importance that the persons awarded
3 joint custody have agreed to an award of joint legal custody. The court
4 shall also consider:

- 5 (1) the fitness and suitability of each of the persons awarded joint
6 custody;
- 7 (2) whether the persons awarded joint custody are willing and
8 able to communicate and cooperate in advancing the child's
9 welfare.
- 10 (3) the wishes of the child, with more consideration given to the
11 child's wishes if the child is at least fourteen (14) years of age;
12 and
- 13 (4) whether the child has established a close and beneficial
14 relationship with both of the persons awarded joint custody;
- 15 (5) whether the persons awarded joint custody:
 - 16 (A) live in close proximity to each other; and
 - 17 (B) plan to continue to do so; and
- 18 (6) the nature of the physical and emotional environment in the
19 home of each of the persons awarded joint custody.

20 SECTION 4. IC 31-17-2-14 IS REPEALED [EFFECTIVE JULY 1,
21 1999].

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 2058, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 14, nays 0.

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