



STATE POLITICS FEBRUARY 23, 2016 6:20 PM

Florida Senate passes bill that helps give divorced parents equal time with children

HIGHLIGHTS

If law is enacted, judges would start by assuming 50/50 time-sharing by parents

Any change to that would have to be documented, justified by judge

Senators debate merits of studies on the subject



People wait to have their uncontested divorce cases heard, ruled upon and finalized in December 2010 sit in a courtroom presided over by Judge Arthur Birkin during the 17th Judicial Court's Family Pro Se Day at the Broward County Courthouse **MARSHA HALPER** - mhalper@miamiherald.com

BY MICHAEL AUSLEN
Herald/Times Tallahassee Bureau

TALLAHASSEE — Judges soon may have little choice but to give divorcing parents equal time with their children.

The Senate on Tuesday passed a change to divorce law that would require judges to presume that it is best for children to split time equally with both parents and to issue a detailed order if they deviate from that standard.

Under current law, judges are supposed to consider 20 criteria, the child's best interests and "frequent and continuing contact with both parents" when they write an order. But Sen. Tom Lee, R-Brandon, who sponsored the legislation (SB 250) says the

child's well-being is an end goal and that to accomplish that, it's in the best interests of kids to split time evenly with both parents whenever possible.

The majority of senators agreed, passing Lee's bill on a 23-15 vote. The legislation hasn't been supported by the House yet, but other changes to divorce law remain under consideration.

"As we look at other child welfare policies that we enact, we always start with the assumption that if it's in best interest of the child, we want both parents involved and that we want both parents to take responsibility," said Sen. Don Gaetz, R-Niceville.

Some research indicates children are likely to be better adjusted when parents have joint custody. In 2002, Robert Bauserman, then a psychologist at the Maryland Department of Health and Mental Hygiene, compiled studies that compared children growing up in joint custody arrangements to those living with one parent.

In general, Bauserman found, children who spent some time with each parent had fewer behavioral problems, higher self-esteem and did better in school.

Parents, on the other hand, tend to be more satisfied if they don't have to split time with their children with an ex-spouse, according to Bauserman.

But opponents to the time-sharing bill, including Sen. Jeff Clemens, D-Lake Worth, say there isn't sufficient data to indicate that splitting time evenly between both parents is the ideal place to draw the line. They argue doing so could simply lead to backlogs in the courts as parents unhappy with their custody agreements ask judges to reconsider their time-sharing.

Critics further raise concerns that creating a 50/50 starting point for court orders could prejudice judges and that it meddles too much with judicial discretion.

"Each case is different," Sen. Arthenia Joyner, D-Tampa, said. "Each comes with its own unique dynamics, and conceivably, someone could come in not being equal to the other."

Take, for instance, a case when one parent has been convicted of a serious crime. While judges are supposed to consider that factor when issuing an order in these cases, Joyner and others worried that a judge may feel compelled to err on the side of giving both parents as close to equal time with children as possible.

"Setting a place for judges to start, I think, is prejudicing them before the case even begins," Clemens said.

Lee disagrees. The legislation allows judges to deviate from the 50/50 time-sharing based on the 20 criteria judges use under current law and two additional issues.

What's more, he said, it's a civil rights issue.

"We have legislation moving year in and year out — some this year — that is designed to create equal rights, but somehow when it comes to the courts it's not important?" Lee said.

Even with the support of a powerful advocate like Lee, it's unclear if the bill will reach the governor's desk to become law.

The time-sharing issue has been caught up in broader debate in the Senate over reforming alimony and divorce laws. The House's current version (HB 455) doesn't include time-sharing provisions, but it could be changed as alimony reform supporters in the two chambers negotiate details.

TAMPA BAY TIMES RESEARCHER CARYN BAIRD CONTRIBUTED TO THIS STORY.

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