**South Carolina General Assembly**

124th Session, 2021-2022

**H. 3168**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. McKnight, J.L. Johnson and Hill

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Companion/Similar bill(s): 3569

Introduced in the House on January 12, 2021

Currently residing in the House Committee on **Judiciary**

Summary: Child custody orders

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2020 House Prefiled

12/9/2020 House Referred to Committee on **Judiciary**

1/12/2021 House Introduced and read first time ([House Journal‑page 99](file:///h:\hj\20210112.docx))

1/12/2021 House Referred to Committee on **Judiciary** ([House Journal‑page 99](file:///h:\hj\20210112.docx))

1/14/2021 House Member(s) request name added as sponsor: J.L.Johnson

1/27/2021 House Member(s) request name added as sponsor: Hill

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\3168_20201209.docx)

**A** **BILL**

TO AMEND SECTION 63‑15‑220, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PARENTING PLANS, SO AS TO CREATE A PRESUMPTION THAT IT IS IN THE BEST INTEREST OF THE CHILD TO SPEND APPROXIMATELY AN EQUAL AMOUNT OF TIME WITH EACH PARENT, WITH EXCEPTIONS; AND TO AMEND SECTION 63‑15‑240, RELATING TO CHILD CUSTODY ORDERS, SO AS TO REQUIRE THE COURT TO TAKE INTO CONSIDERATION CERTAIN FACTORS WHEN DETERMINING WHAT IS IN THE BEST INTEREST OF A CHILD, TO REQUIRE THAT A CHILD CUSTODY ORDER INCLUDE FINDINGS OF FACT IF THE TIME‑SHARING SCHEDULE DOES NOT ALLOCATE APPROXIMATELY EQUAL PARENTING TIME TO EACH PARENT, AND TO PROVIDE REQUIREMENTS TO MODIFY CHILD CUSTODY ORDERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 63‑15‑220 of the 1976 Code is amended to read:

“Section 63‑15‑220. (A)(1) At all temporary hearings where custody is contested, each parent must prepare, file, and submit to the court a parenting plan, which reflects parental preferences, the allocation of parenting time to be spent with each parent, and major decisions~~,~~ including, but not limited to, the child’s education, medical and dental care, extracurricular activities and religious training. However, the parties may elect to prepare, file, and submit a joint parenting plan.

(2) There is a presumption that a time‑sharing schedule of approximately equal allocation of parenting time to each parent is in the best interest of the child. In determining whether the presumption is overcome, the court shall evaluate the evidence taking into consideration the best interest of the child pursuant to Section 63‑15‑240(B).

(3) The court shall issue temporary and final custody orders only after considering these parenting plans; however, the failure by a party to submit a parenting plan to the court does not preclude the court from issuing a temporary or final custody order.

(B) At the final hearing, either party may file and submit an updated parenting plan for the court’s consideration.

(C) The South Carolina Supreme Court shall develop rules and forms for the implementation of the parenting plan.”

SECTION 2. Section 63‑15‑240 of the 1976 Code is amended to read:

“Section 63‑15‑240. (A) In issuing or modifying an order for custody affecting the rights and responsibilities of the parents, the order may include, but is not limited to:

(1) the approval of a parenting plan;

(2) the award of sole custody to one parent with appropriate parenting time for the noncustodial parent;

(3) the award of joint custody, in which case the order must include:

(a) residential arrangements with each parent in accordance with the needs of each child; and

(b) how consultations and communications between the parents will take place, generally and specifically, with regard to major decisions concerning the child’s health, medical and dental care, education, extracurricular activities, and religious training;

(4) other custody arrangements as the court may determine to be in the best interest of the child.

(B) In issuing or modifying a custody order, the court must consider the best interest of the child, which may include, but is not limited to:

(1) the temperament and developmental needs of the child;

(2) the capacity and the disposition of the parents to understand and meet the needs of the child;

(3) the preferences of each child;

(4) the wishes of the parents as to custody of the child and the allocation of parenting time to each parent;

(5) the past and current interaction and relationship of the child with each parent, the child’s siblings, and any other person, including a grandparent, who may significantly affect the best interest of the child;

(6) the actions of each parent to encourage the continuing parent‑child relationship between the child and the other parent, as is appropriate, including compliance with court orders;

(7) the manipulation by or coercive behavior of the parents in an effort to involve the child in the parents’ dispute;

(8) any effort by one parent to disparage the other parent in front of the child;

(9) the ability of each parent to be actively involved in the life of the child;

(10) the child’s adjustment to his or her home, school, and community environments;

(11) the stability of the child’s existing and proposed residences;

(12) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, must not be determinative of custody unless the proposed custodial arrangement is not in the best interest of the child;

(13) the child’s cultural and spiritual background;

(14) whether the child or a sibling of the child has been abused or neglected;

(15) whether one parent has perpetrated domestic violence or child abuse or the effect on the child of the actions of an abuser if any domestic violence has occurred between the parents or between a parent and another individual or between the parent and the child;

(16) whether one parent has relocated more than one hundred miles from the child’s primary residence in the past year, unless the parent relocated for safety reasons; ~~and~~

(17) the frequency with which a parent would be likely to leave the child in the care of a nonrelative on evenings and weekends when the other parent would be available and willing to provide care; and

(18) other factors as the court considers necessary.

(C) A custody order issued or modified by the court must be supported by written findings of fact if the order establishes a time‑sharing schedule that does not allocate approximately equal parenting time to each parent, which must address why it is not in the best interest of the child for each parent to have approximately equal parenting time.

(D) A determination of custody, a parenting plan, or a time‑sharing schedule may not be modified without a determination that modification is in the best interest of the child and a showing of a substantial, material, and unanticipated change in circumstance.”

SECTION 3. This act takes effect upon approval by the Governor.

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