

Children's Law Center of Indiana



New Legislation on Paternity Law Effective July 1, 2009¹

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A. House Enrolled Act 1511:

IC 31-14-13-2.3 was added to allow the court to award joint legal custody of a child in a paternity proceeding if the court finds that an award of joint legal custody would be in the best interest of the child. An award of joint legal custody does not require an equal division of physical custody of the child. The factors for the court to consider in determining whether an award of joint custody would be in the child's best interest include as a matter of primary, but not determinative, importance that the persons have agreed to joint legal custody. Other factors which the court shall consider are:

1. the fitness and suitability of each of the persons awarded joint legal custody;
2. whether the persons awarded joint legal custody are willing and able to communicate and cooperate in advancing the child's welfare;
3. the wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age;
4. whether the child has established a close and beneficial relationship with both the persons awarded joint legal custody;
5. whether the persons awarded joint legal custody;
 - (A) live in close proximity to each other; and

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- (B) plan to continue to do so;
6. the nature of the physical and emotional environment in the home of each of the persons awarded joint legal custody; and
 7. whether there is a pattern of domestic or family violence.

The statute regarding the role of the custodial parent, IC 31-14-13-4, was amended to read as follows:

Except as otherwise provided in an order by the court, the custodial parent may determine the child's upbringing, which includes education, health care, and religious training, unless the court determines that the best interests of the child require a limitation on this authority. (Underlined language added.)

The statute regarding parenting time for noncustodial parents in paternity proceedings, IC 31-14-14-1, was amended to establish a rebuttable presumption that a person who has been convicted of child molesting (IC 35-42-4-3) or child exploitation (IC 35-42-4-4(b)) might endanger the child's physical health or significantly impair the child's emotional development. If a court grants parenting time rights to a person who has been convicted of child molesting or child exploitation, there is a rebuttable presumption that the parenting time must be supervised.

B. Senate Enrolled Act 280:

Senate Enrolled Act 280 was amended to, among other things, add IC 31-14-21-13 which provides as follows:

Upon notice that a court in which an adoption is pending has assumed jurisdiction of a paternity action under IC 31-19-2-14, the court in which the paternity action was pending shall stay all proceedings in the paternity action until further order from the court in which the adoption is pending.