

**SENATE BILL No. 575**

By Committee on Federal and State Affairs

3-21

1 AN ACT concerning family law; relating to legal custody, residency and  
2 parenting time; requiring the court to adopt a parenting plan that  
3 maximizes each party's parenting time; adding misleading the court as a  
4 factor to consider when the court considers legal custody, residency and  
5 parenting time; creating a presumption that joint legal custody in a  
6 temporary parenting plan is in the best interests of a child and defining  
7 related terms under the Kansas family law code; adding failure to  
8 exercise parenting time as an action that may be considered a material  
9 change of circumstances; amending K.S.A. 2021 Supp. 23-3202, 23-  
10 3203, 23-3211, 23-3212, 23-3213 and 23-3221 and repealing the  
11 existing sections.  
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2021 Supp. 23-3202 is hereby amended to read as  
15 follows: 23-3202. (a) If the parties have entered into a parenting plan, it  
16 shall be presumed that the agreement is in the best interests of the child.  
17 This presumption may be overcome and the court may make a different  
18 order if the court makes specific findings of fact stating why the agreed  
19 parenting plan is not in the best interests of the child.

20 (b) (1) *If the parties are not in agreement on a permanent parenting*  
21 *plan, each party shall submit a proposed parenting plan to the court for*  
22 *consideration at such time before the final hearing as may be directed by*  
23 *the court. The court shall adopt a permanent parenting plan that*  
24 *maximizes each party's parenting time and is consistent with the best*  
25 *interests of the child.*

26 (2) *The court shall make specific findings of fact stating the relevant*  
27 *factors and reasons why the permanent parenting plan ordered by the*  
28 *court is in the best interests of the child.*

29 (c) *A court shall not adopt a local rule, form or practice that requires*  
30 *a standardized or default parenting plan for any orders.*

31 Sec. 2. K.S.A. 2021 Supp. 23-3203 is hereby amended to read as  
32 follows: 23-3203. (a) In determining the issue of legal custody, residency  
33 and parenting time of a child, the court shall consider all relevant factors,  
34 including, but not limited to:

35 (1) Each parent's role and involvement with the minor child before  
36 and after separation;

- 1 (2) the desires of the child's parents as to *legal* custody or residency;
- 2 (3) the desires of a child of sufficient age and maturity as to the
- 3 child's *legal* custody or residency;
- 4 (4) the age of the child;
- 5 (5) the emotional and physical needs of the child;
- 6 (6) the interaction and interrelationship of the child with parents,
- 7 siblings and any other person who may significantly affect the child's best
- 8 interests;
- 9 (7) the child's adjustment to the child's home, school and community;
- 10 (8) the willingness and ability of each parent to respect and appreciate
- 11 the bond between the child and the other parent and to allow for a
- 12 continuing relationship between the child and the other parent;
- 13 (9) evidence of domestic abuse, including, but not limited to:
- 14 (A) A pattern or history of physically or emotionally abusive
- 15 behavior or threat thereof used by one person to gain or maintain
- 16 domination and control over an intimate partner or household member; or
- 17 (B) an act of domestic violence, stalking or sexual assault;
- 18 (10) the ability of the parties to communicate, cooperate and manage
- 19 parental duties;
- 20 (11) the school activity schedule of the child;
- 21 (12) the work schedule of the parties;
- 22 (13) the location of the parties' residences and places of employment;
- 23 (14) the location of the child's school;
- 24 (15) whether a parent is subject to the registration requirements of the
- 25 Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments
- 26 thereto, or any similar act in any other state, or under military or federal
- 27 law;
- 28 (16) whether a parent has been convicted of abuse of a child, K.S.A.
- 29 21-3609, prior to its repeal, or K.S.A. 2021 Supp. 21-5602, and
- 30 amendments thereto;
- 31 (17) whether a parent is residing with an individual who is subject to
- 32 registration requirements of the Kansas offender registration act, K.S.A.
- 33 22-4901 et seq., and amendments thereto, or any similar act in any other
- 34 state, or under military or federal law; ~~and~~
- 35 (18) whether a parent is residing with an individual who has been
- 36 convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A.
- 37 2021 Supp. 21-5602, and amendments thereto; *and*
- 38 (19) *whether a parent has intentionally misled the court in order to*
- 39 *cause unnecessary delay, increase litigation costs and expenses or*
- 40 *improperly influence the court to determine the issue of legal custody,*
- 41 *residency and parenting time in a manner favorable to such parent.*
- 42 (b) To aid in determining the issue of legal custody, residency and
- 43 parenting time of a child, the court may order a parent to undergo a

1 domestic violence offender assessment conducted by a certified batterer  
2 intervention program and may order such parent to follow all  
3 recommendations made by such program.

4 Sec. 3. K.S.A. 2021 Supp. 23-3211 is hereby amended to read as  
5 follows: 23-3211. *As used in article 32 of chapter 23 of the Kansas*  
6 *Statutes Annotated, and amendments thereto:*

7 (a) *"Joint legal custody" means that both parents retain the decision-*  
8 *making authority for the most important issues affecting a child's life,*  
9 *including health, education and welfare, and neither parent has the right*  
10 *to decide such matters without receiving input from or consulting with the*  
11 *other parent.*

12 (b) *"Legal custody" means the allocation of parenting responsibilities*  
13 *between parents, or any person acting as a parent, including decision-*  
14 *making rights and responsibilities pertaining to matters of child health,*  
15 *education and welfare.*

16 (c) *"Parenting time" means the schedule of time when each parent*  
17 *has actual physical access to a child, during which the scheduled parent is*  
18 *responsible for the physical care and supervision of the child.*

19 (d) *"Permanent parenting plan" means an agreement between*  
20 *parents that is incorporated into an order at a final hearing or an order or*  
21 *decree issued at a final hearing without agreement that establishes legal*  
22 *custody, residency, parenting time and other matters regarding a child*  
23 *custody arrangement in a matter in which a parenting plan may be*  
24 *entered.*

25 (e) *"Temporary parenting plan" means an agreement or order issued*  
26 *defining the legal custody, residency and parenting time to be exercised by*  
27 *parents with regard to a child between the time of filing of a matter in*  
28 *which a parenting plan may be entered, and any other provisions regarding*  
29 *the child's care which may be in the best interest of the child, until a final*  
30 *order is issued.*

31 ~~(b) "Permanent parenting plan" means an agreement between parents~~  
32 ~~which is incorporated into an order at a final hearing or an order or decree~~  
33 ~~issued at a final hearing without agreement that establishes legal custody,~~  
34 ~~residency, parenting time and other matters regarding a child custody~~  
35 ~~arrangement in a matter in which a parenting plan may be entered.~~

36 ~~(e) "Legal custody" means the allocation of parenting responsibilities~~  
37 ~~between parents, or any person acting as a parent, including decision-~~  
38 ~~making rights and responsibilities pertaining to matters of child health,~~  
39 ~~education and welfare.~~

40 Sec. 4. K.S.A. 2021 Supp. 23-3212 is hereby amended to read as  
41 follows: 23-3212. (a) The court may ~~enter~~ *issue an agreement or order for*  
42 *a temporary parenting plan in any case a matter* in which temporary orders  
43 relating to child custody ~~is~~ *are* authorized.

1 (b) If the court deems it appropriate, a temporary parenting plan  
2 approved by the court may include one or more of the following  
3 provisions regarding children involved in the matter before the court:

4 (1) Designation of the temporary legal custody of the child;

5 (2) designation of a temporary residence for the child;

6 (3) allocation of parental rights and responsibilities regarding matters  
7 pertaining to the child's health, education and welfare; *and*

8 (4) a schedule for the child's time with each parent, when appropriate.

9 (c) *In making an order for a temporary parenting plan, there shall be*  
10 *a presumption that it is in the best interests of the child for fit, willing and*  
11 *able parents to have temporary joint legal custody and maximized*  
12 *parenting time with each parent.*

13 (d) A parent seeking a temporary order in which matters of ~~child~~  
14 *legal custody, residency, or parenting time are included shall file a*  
15 *proposed temporary parenting plan contemporaneous with any request for*  
16 *issuance of such temporary orders, ~~which and such~~ plan shall be served*  
17 *with any such temporary orders.*

18 ~~(d)~~(e) If the parent who has not filed a proposed temporary parenting  
19 plan disputes the allocation of parenting responsibilities, residency,  
20 parenting time or other matters included in the proposed temporary  
21 parenting plan, ~~that~~ *such* parent shall file and serve a responsive proposed  
22 temporary parenting plan.

23 ~~(e)~~(f) Either parent may move to have a proposed temporary  
24 parenting plan entered as part of a temporary order. The parents may enter  
25 an agreed temporary parenting plan at any time as part of a temporary  
26 order.

27 ~~(f)~~(g) A parent may move for amendment ~~of~~ *to* a temporary parenting  
28 plan, and the court may order amendment to the temporary parenting plan,  
29 if the amendment is in the best ~~interest~~ *interests* of the child.

30 ~~(g)~~(h) If a proceeding for divorce, separate maintenance, annulment  
31 or determination of parentage is dismissed, any temporary parenting plan  
32 is vacated.

33 Sec. 5. K.S.A. 2021 Supp. 23-3213 is hereby amended to read as  
34 follows: 23-3213. (a) The objectives of the permanent parenting plan are  
35 to:

36 (1) Establish a proper allocation of parental rights and  
37 responsibilities;

38 (2) establish an appropriate working relationship between the parents  
39 such that matters regarding the health, education and welfare of their child  
40 is best determined;

41 (3) provide for the child's physical care;

42 (4) set forth an appropriate schedule of parenting time *that maximizes*  
43 *parenting time with each parent;*

- 1 (5) maintain the child's emotional stability;
- 2 (6) provide for the child's changing needs as the child grows and  
3 matures in a way that minimizes the need for future modifications to the  
4 permanent parenting plan;
- 5 (7) minimize the child's exposure to harmful parental conflict;
- 6 (8) encourage the parents, where appropriate, to meet their  
7 responsibilities to their minor children through agreements in the  
8 permanent parenting plan, rather than by relying on judicial intervention;  
9 and
- 10 (9) otherwise protect the best interests of the child.
- 11 (b) A permanent parenting plan may consist of a general outline of  
12 how parental responsibilities and parenting time will be shared and may  
13 allow the parents to develop a more detailed agreement on an informal  
14 basis; however, a permanent parenting plan ~~must~~ *shall* set forth the  
15 following minimum provisions:
  - 16 (1) Designation of the legal custodial relationship of the child;
  - 17 (2) a schedule for the child's time with each parent, when appropriate;
  - 18 (3) a provision for a procedure by which disputes between the parents  
19 may be resolved without need for court intervention; and
  - 20 (4) if either parent is a service member, as defined in K.S.A. 2021  
21 Supp. 23-3217, and amendments thereto, provisions for *legal* custody,  
22 *residency* and parenting time upon military deployment, mobilization,  
23 temporary duty or unaccompanied tour of such service member.
- 24 (c) A detailed permanent parenting plan shall include those provisions  
25 required by subsection (b), and may include, but need not be limited to,  
26 provisions relating to:
  - 27 (1) Residential schedule;
  - 28 (2) holiday, birthday and vacation planning;
  - 29 (3) weekends, including holidays and school inservice days preceding  
30 or following weekends;
  - 31 (4) allocation of parental rights and responsibilities regarding matters  
32 pertaining to the child's health, education and welfare;
  - 33 (5) sharing of and access to information regarding the child;
  - 34 (6) relocation of parents;
  - 35 (7) telephone access;
  - 36 (8) transportation; and
  - 37 (9) methods for resolving disputes.
- 38 (d) The court shall develop a permanent parenting plan, ~~which that~~  
39 may include such detailed provisions as the court deems appropriate,  
40 when:
  - 41 (1) So requested by either parent; or
  - 42 (2) ~~the parent or parents are unable to develop~~ *parties are not in*  
43 *agreement on a parenting plan.*

1       Sec. 6. K.S.A. 2021 Supp. 23-3221 is hereby amended to read as  
2 follows: 23-3221. (a) The court may modify an order granting or denying  
3 parenting time whenever modification would serve the best interests of the  
4 child.

5       (b) *The following actions by a party may be considered a material*  
6 *change of circumstances that justify modification of a prior order of legal*  
7 *custody, residency or parenting time:*

8       (1) Repeated unreasonable denial of or interference with parenting  
9 time granted under this article ~~may be considered a material change of~~  
10 ~~circumstances which justifies modification of a prior order of legal~~  
11 ~~custody, residency or parenting time; or~~

12       (2) *failure to exercise more than half of such party's parenting time,*  
13 *except as provided in K.S.A. 23-3217(b), and amendments thereto, or*  
14 *when such failure is caused by a medical condition.*

15       (c) ~~Any~~A party may petition the court to modify an order granting  
16 parenting time to require that the exchange or transfer of children for  
17 parenting time take place at a child exchange and visitation center, as  
18 established in K.S.A. 75-720, and amendments thereto.

19       Sec. 7. K.S.A. 2021 Supp. 23-3202, 23-3203, 23-3211, 23-3212, 23-  
20 3213 and 23-3221 are hereby repealed.

21       Sec. 8. This act shall take effect and be in force from and after its  
22 publication in the statute book.