



A SUMMARY OF HOUSE BILL 4546 AS INTRODUCED 3-28-01

The bill would amend the Child Custody Act of 1970 to create a rebuttable presumption under certain circumstances that a party to a child custody action not be awarded custody if that party had a history of perpetrating domestic violence on the other party to the action.

More specifically, if the court determined that a party to a child custody action had a history of domestic violence against the other party, a rebuttable presumption would arise that it would be detrimental to the child and not in the child’s best interests for the perpetrator of the domestic violence to be awarded sole custody, joint legal custody, or joint physical custody of the child. The court could find a history of domestic violence if it found that a single incident of domestic violence resulted in serious bodily injury or involved the use of a weapon or if there had been more than one incident of domestic violence. If the court determined that each party had a history of domestic violence against the other party, the court would be required to supply the presumption in favor of the party determined to be less likely to continue to perpetrate domestic violence. A presumption under the bill would be rebutted if it were demonstrated that an award of sole custody, joint legal custody, or joint physical custody to the perpetrator were in the best interests of the child and that there existed no significant risk of future domestic violence against a child or adult living in the home or against another family member, including another party in the case.

The bill would define “domestic violence” as it is defined in the domestic violence act, Public Act 389 of 1978. As defined in that act, “domestic violence” means “a violent physical attack or fear of violent physical attack perpetrated by an assailant against a victim; in which the victim is a person assaulted by or threatened by assault by his or her spouse or former spouse or an adult person or emancipated minor assaulted by an adult person of the opposite sex with whom the assaulted person cohabits or formerly cohabited; and in which the victim and assailant are or were involved in a consenting, sexual relationship.”

MCL 722.22 and 722.25

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■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.