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BILL ANALYSIS



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House Bill 4480 (Substitute H-1 as passed by the House)
Sponsor: Representative Kurt Heise
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 12-7-15

CONTENT

The bill would amend the Child Custody Act to prohibit a court, when evaluating the best interests of a child, from negatively considering an action taken by a parent to protect the child, or himself or herself, from sexual assault or domestic violence by the other parent.

Under the Act, if a child custody dispute is between the parents, between agencies, or between third persons, the best interests of the child control. If the dispute is between the parent or parents and an agency or a third person, the court must presume that the best interests of the child are served by awarding custody to the parent or parents, unless the contrary is established by clear and convincing evidence. If the parents of a child agree on joint custody, the court must award joint custody unless it determines that joint custody is not in the best interests of the child.

The Act also requires parenting time to be granted in accordance with the best interest of the child, and states that it is presumed to be in the best interests of a child for the child to have a strong relationship with both of his or her parents. If parents agree on parenting time terms, the court must order those terms unless it determines that the parenting time terms are not in the best interests of the child.

"Best interests of the child" means the sum total of certain factors that the court must consider, evaluate, and determine. One of those factors is the willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent. Under the bill, for the purposes of that factor, a court could not consider negatively any action taken by a parent to protect a child or that parent from sexual assault or domestic violence by the child's other parent.

The bill would take effect 90 days after its enactment.

MCL 722.23

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan

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