

Amendment to HB 185-FN

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 New Paragraphs; Parental Rights and Responsibilities; Definitions. Amend RSA 461-A:1 by
4 inserting after paragraph VI the following new paragraphs:

5 VI-a. "Fit parent" means having the present ability to care for the child, having the basic
6 necessities of having a home or other shelter, a means of supporting the child, whether through
7 employment or other income, and poses no harm to the child.

8 VI-b. "Joint-parenting schedule" means approximately equal residential parenting
9 responsibilities, including overnights with the child by both fit parents.

10 2 New Paragraph; Parental Rights and Responsibilities; Determination of Parental Rights and
11 Responsibilities; Best Interest; Presumption of Shared Parenting Established. Amend RSA 461-A:6
12 by inserting after paragraph I-a the following new paragraph:

13 I-b. The court shall determine a joint-parenting schedule in accordance with the best
14 interests of the child pursuant to RSA 461-A:6.

15 (a) There shall be a presumption that an award of a joint-parenting schedule is in the
16 best interest of the child.

17 (b) The presumption that a joint-parenting schedule is in the best interest of the child
18 may be rebutted:

19 (1) If the court finds by clear and convincing evidence that a joint-parenting schedule
20 is not in the best interest of the child;

21 (2) If the parties have reached an alternative agreement on all issues related to
22 parental rights and responsibilities for the child;

23 (3) If one of the parties does not request sole, primary, or joint responsibility for the
24 child. Reasons may include, but are not limited to, one parent lives a substantial distance outside of
25 the child's school district; one parent is committed to frequent, significant periods of time away from
26 home due to military or employment obligations; or one parent is convicted of abuse or neglect;

27 (4) If evidence of abuse under subparagraph I(j), including any evidence of abuse as
28 defined in RSA 173-B:1, I or RSA 169-C:3, II, or criminal assault or abuse under paragraph IV is
29 established; or

30 (5) If one of the parties is charged with interference with custody under RSA 633:4.

31 (6) If a court of competent jurisdiction finds clear and convincing evidence that one
32 parent demonstrates a pattern of willfully creating conflict in an attempt to disrupt a current or

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1 pending joint-parenting schedule, and if the court is unable to enter an order that will reduce areas
2 of conflict caused by the disruptive parent, then the court may deem such behavior a material
3 change of circumstances and may change a joint-parenting schedule to a primary residential
4 responsibility schedule to the non-disruptive parent.

5 (c) An objection by one parent to a proposed parenting arrangement, or an allegation
6 that co-parenting is impossible, shall not be the sole basis for a court order finding that a joint-
7 parenting schedule is not in the best interest of the child.

8 (d) After a hearing on the merits, if the court determines that the presumption in
9 subparagraph I-b(a) is rebutted, the court shall enter a written order that includes the following,
10 unless waived by both parties:

11 (1) Facts, findings, and conclusions of law and clear and convincing evidence
12 concerning the basis for the court's determination; and

13 (2) A parenting time schedule that:

14 (A) Maximizes the amount of time that each child has with both parents; and

15 (B) Is consistent with the best interests of the child.

16 (e)(1) Unless the court order or parenting plan specifically provides otherwise, both
17 parents shall have access to records and information pertaining to a minor child including, but not
18 limited too, medical, dental, and school records.

19 (2) Except as otherwise precluded by state or federal law, if any individual,
20 professional, public or private institution or organization denies access or fails to provide or disclose
21 any and all records and information, including, but not limited to, past and present dental, medical,
22 and school records pertaining to a minor child, to either parent upon the written request of such
23 parent, the court shall, upon its finding that the individual, professional, public or private institution
24 or organization denied such request without good cause, the court shall issue a subpoena or
25 subpoena duces tecum, for the aggrieved parent to immediately retrieve the requested records.

26 3 Applicability. RSA 461-A:6 as amended by section 2 of this act shall apply to cases filed on or
27 after January 1, 2025. Any order entered prior to such date shall remain in full effect until modified
28 by a court of competent jurisdiction.

29 4 Effective Date. This act shall take effect January 1, 2025.

2023-2351h

AMENDED ANALYSIS

This bill creates a presumption of parental rights and responsibilities based on shared parenting and shared access to the child's records, and defines joint-parenting schedule.

UNAPPROVED