

LEGISLATIVE CHANGES IMPACTING THE FAMILY LAW PRACTITIONER IN 2019

BY ALEX H. SITZ III

The yearly legislative session has once again come and gone, but it left us with three (3) changes which family law practitioners should note and once again made an attempt to pass the shared custody agenda but failed. All the changes will go into effect as of July 1, 2019. The first three noted below are the passing bills with the fourth and final note setting forth the attempted shared custody bill's language.

1. **New ground allowed when seeking termination of parental rights.** House Bill 107 passed which added a ninth new ground regarding sexual assaults to Wyoming Statute § 14-2-309. It will now read with the addition of subparagraph (ix) as follows:

14 2 309. Grounds for termination of parent child relationship; clear and convincing evidence.

- (a) The parent child legal relationship may be terminated if any one (1) or more of the following facts is established by clear and convincing evidence:

(ix) The parent committed sexual assault and the child was conceived as a result of the sexual assault. For the purposes of this paragraph, the following shall apply:

(A) A person committed sexual assault if the person was convicted of an offense under W.S. 6 2 302, 6 2 303, 6 2 314 through 6 2 316 or other similar law of another jurisdiction;

(B) Reasonable effort to reunify the family is not required to terminate parental rights;

(C) This paragraph shall not apply if the parent seeking termination was married to or cohabiting with the parent committing the sexual assault resulting in the birth of the child for not less than two (2) years immediately after the birth of the child. Nothing in this subparagraph shall be construed as limiting a parent from seeking termination under another provision of this section or from seeking sole custody under title 20, chapter 5 of the Wyoming statutes.

2. **The Court can now set forth a graduated visitation schedule and other safeguards to reintegrate families when terminating a guardianship.** House Bill 155 created a new statute when terminating guardianships with the addition of W.S. § 3-3-1107, which will allow the Court to have the authority to reintegrate children when it terminates a guardianship. The new statutes will read:

3 3 1107. Termination of guardianships; reintegration plan.

- (a) Upon the filing of a petition for termination of guardianship

by a parent, the court shall consider the best interests of the child while giving deference to the rebuttable presumption that a fit parent is entitled to custody of their child.

- (b) If the parent was found unfit at the time the guardianship was ordered, upon the parent's successful petition for the termination of guardianship the court may create a reintegration plan to impose any necessary requirements to facilitate the child's return to the parent including:

- (i) Establishing a graduated visitation schedule for the parent;

- (ii) Requiring the parent to attend a parenting class or other appropriate education or treatment designed to address the problems that contributed to the necessity for a guardianship and to pay all or part of the cost of the class, education or treatment in accordance with the parent's ability to pay;

- (iii) Any other provision the court deems necessary.

3. **Grandparents who are not legal guardians can now file to terminate parental rights.** House Bill 157 created a new subsection (b) to Wyoming Statute § 14-2-310, to now allow a grandparent to seek termination of parental rights. New subsection will read:

14 2 310. Parties authorized to file petition.

(b) The petition for the termination of the parent child relationship may be filed with the court by a biological or adoptive grandparent acting in loco parentis to the child, where the child has resided with the grandparent for a period of not less than one (1) year and the placement is not under the direction of a juvenile court or the department of family services.

4. **Another one bites the dust.** Finally, it should be noted that a number of representatives once again sponsored a bill this year to push the shared custody agenda in House Bill 114. That bill ultimately failed but it is interesting to note the proposed changes which read as follows:

20 2 201. Disposition and maintenance of children in decree or order; access to records.

- (a) Unless otherwise specified, in granting a divorce, separation or annulment of a marriage or upon the establishment of paternity pursuant to W.S. 14 2 401 through 14 2 907, the court may shall make by decree or order any disposition of the children that appears most expedient and is in the best interests of the children. In determining the best interests of the child, the court shall consider, but

Continued on page 9

LEGISLATIVE CHANGES

Continued from page 8

is not limited to, the following factors:

(d) The court shall order custody in well defined terms to promote understanding and compliance by the parties. ~~In determining custody a court shall not favor or disfavor any form of custody. Custody shall be crafted to promote the best interests of the children, and may include any combination of joint, shared or sole custody. The court shall enter an order of shared custody unless:~~

(i) A different form of custody has been agreed to in writing and signed by both parties;

(ii) There has been a finding of domestic violence by one (1) or both parties;

(iii) One (1) or both parties have been adjudged by a court to be guilty of cruelty, abuse, neglect or mistreatment of the children;

(iv) The parties no longer reside within three hundred (300) miles of each other and sole physical custody is the only practical arrangement; or

(v) There is clear and convincing evidence that sole physical custody is in the best interests of the children.

(j) For purposes of this section:

(i) "Joint legal custody" means both parents share the decision making rights, responsibilities and authority related to the health, education and welfare of the children;

(ii) "Joint physical custody" means the children physically reside with each parent for a substantially equal amount of time each calendar year, with a parental plan crafted to promote the best interests of the children;

(iii) "Shared custody" means a child custody arrangement that includes both joint legal custody and joint physical custody;

(iv) "Sole physical custody" means a child custody arrangement in which the children reside with one (1) parent the majority of time each calendar year, subject to any visitation order made pursuant to W.S. 20-2-202. ☐



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NEVILLE@SPENCELAWYERS.COM • 307-337-3833 • SPENCELAWYERS.COM