

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 602

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO DIVORCE ACTIONS; AMENDING SECTION 32-717B, IDAHO CODE, TO REVISE PROVISIONS REGARDING JOINT CUSTODY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 32-717B, Idaho Code, be, and the same is hereby amended to read as follows:

32-717B. JOINT CUSTODY. (1) "Joint custody" means an order awarding custody of the minor child or children to both parents and providing that physical custody shall be shared by the parents in such a way as to assure the child or children of frequent and continuing contact with both parents. The court may award either joint physical custody or joint legal custody or both as between the parents or parties as the court determines is for the best interests of the minor child or children. If the court declines to enter an order awarding joint physical and joint legal custody, the court shall state in its decision the reasons for denial of an award of joint physical or joint legal custody.

(2) "Joint physical custody" means an order awarding each of the parents significant periods of time in which a child resides with or is under the care and supervision of each of the parents or parties.

~~Joint physical custody shall be shared by the parents in such a way to assure the child a frequent and continuing contact with both parents~~ For purposes of this section, "significant periods of time" means as near to equal as practicable, but does not necessarily mean the child's time with each parent should be exactly the same in length ~~nor does it necessarily mean the child should be alternating back and forth over certain periods of time between each parent~~. The actual amount of time with each parent shall be determined by the court.

(3) "Joint legal custody" means a judicial determination that the parents or parties are required to share the decision-making rights, responsibilities and authority relating to the health, education and general welfare of a child or children.

(4) Except as provided in subsection (5), of this section, absent a preponderance of the evidence to the contrary, there shall be a presumption that joint physical and joint legal custody is in the best interests of a minor child or children.

(5) There shall be a presumption that joint custody is not in the best interests of a minor child if one (1) of the parents is found by the court to be a habitual perpetrator of domestic violence as defined in section 39-6303, Idaho Code.