
DIGEST

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HB 183 Original

2020 Regular Session

Turner

Abstract: Limits the consideration of a parent's blindness in custody, adoption, relocation, child in need of care, and parental termination proceedings and in foster parent fitness and eligibility determinations.

Child in Need of Care

Present law provides for Child in Need of Care (CINC) proceedings to protect children whose physical or mental health and welfare is substantially at risk of harm by physical abuse, neglect, or exploitation and who may be further threatened by the conduct of others and could result in a child being removed from their home. Present law sets forth the grounds for which a CINC proceeding may be brought. Proposed law retains present law.

Proposed law requires that a child whose parent is blind shall not, for that reason alone, be determined to be a child in need of care, unless it is proven by clear and convincing evidence that the petitioner's behavior endangers or is likely to endanger the health, safety, or welfare of the child. If a parent's blindness is considered to be a factor in determining that the child is in need of care, proposed law requires the court to make specific written findings that state the basis of its decision.

Termination of Parental Rights

Present law provides for the involuntary termination of parental rights and enumerates the grounds for which parental rights may be terminated. Proposed law retains present law and provides that parental rights may not be terminated based on the parent's blindness if other grounds for termination do not exist.

Present law requires that the petitioner bear the burden of establishing each element of a ground for termination of parental rights by clear and convincing evidence and that the parent asserting a mental or physical disability as an affirmative defense to abandonment bears the burden of proof by a preponderance of the evidence. When the court finds that the alleged grounds for termination are proven and that it is in the best interest of the child, present law requires the court to enter written findings thereof. Proposed law retains present law.

Adoptions

Present law provides that for an agency adoption, private adoption, intrafamily adoption, and adoption or recognition of a foreign decree of adoption of a foreign orphan from a country outside

of the United States that is not party to the Hague Adoption Convention, the court may enter an interlocutory decree, and later a final decree, of adoption in favor of the petitioning adoptive parent or parents. Present law provides that for an adoption or recognition of a foreign decree of adoption of a convention adoptee from a country outside of the United States that is a party to the Hague Adoption Convention, the court may enter a final decree of adoption in favor of the petitioning adoptive parent or parents. Proposed law retains present law.

Proposed law requires that the court may not refuse to enter an interlocutory or final decree in favor of a petitioner based on the petitioner's blindness if the petitioner is otherwise acceptable to adopt children and the adoption is determined to be otherwise in the best interest of the child. If a petitioner's blindness is alleged to have a detrimental impact on a child, the party who raises the allegation has the burden of proving by clear and convincing evidence that the petitioner's behavior endangers or is likely to endanger the health, safety, or welfare of the child. If the court denies or limits the grant of the adoption to a blind petitioner, the court shall make specific written findings that state the basis of the denial or limitation.

Custody and Visitation

Present law requires that a court award custody of a child in accordance with the best interest of the child and sets out the factors the court is to consider in determining a child's best interest. Proposed law retains present law.

Proposed law provides that a parent's blindness shall not be a factor in determining the child's best interest, unless it is proven by clear and convincing evidence that the blindness significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child and the parent lacks sufficient resources to supplement the parent's ability to provide for the physical and emotional needs of the child. If a parent's blindness is considered to be a factor in determining the child's best interest, proposed law requires the court to make specific written findings that state the basis of its decision.

Relocation

Present law allows certain persons to propose relocation of the principal residence of a child. When the proposed relocation is contested, present law requires the court to consider all relevant factors in determining whether relocation is in the best interest of the child, including certain enumerated factors. Proposed law retains present law.

Proposed law requires that a parent's blindness shall not be a factor in determining the child's best interest, unless it is proven by clear and convincing evidence that the blindness significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child and the parent lacks sufficient resources to supplement the parent's ability to provide for the physical and emotional needs of the child. Proposed law further provides that if a parent's blindness is considered to be a factor in determining the child's best interest, the court shall make specific written findings that state the basis of its decision.

Foster Parenting

Present law provides that persons may contract with the office of children and family services of the Department of Children and Family Services to provide temporary or long-term foster care for not more than six children. Present law requires the office to determine the fitness and eligibility of each person who applies for a contract to provide foster care services. Proposed law retains present law.

Proposed law requires that a person's blindness shall not be a factor in determining the person's fitness and eligibility to provide foster care services, unless it is proven by clear and convincing evidence that the person's behavior endangers or is likely to endanger the health, safety, or welfare of a foster child. If the office determines the person is not eligible for a contract for foster care services, the office shall make specific written findings that state the basis of its decision.

Proposed law defines "blind."

(Amends C.C. Art. 134(B) and R.S. 46:283(A); Adds Ch.C. Arts. 116(29) and (30), 606(D), 1015.2, 1220.1, 1242.1, 1258, 1283.18, and 1284.6 and R.S. 9:355.14(C))