

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	8 - 0 - 1
Yeas:	Cameron, Garrett, Hicks, Krieger, Olson, Tomei, Williamson, Barker
Nays:	0
Exc.:	Barton
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	2/8, 3/12

WHAT THE MEASURE DOES: Prohibits court from considering person’s disability when awarding child custody or parenting time in domestic relations proceeding, unless it is shown by clear and convincing evidence that it would not be in the best interests of the child to award sole or joint custody. Directs court to only consider disability if likely to endanger child’s health, safety, or welfare. Applies to child custody and parenting time proceedings commenced on or after the effective date of this Act.

ISSUES DISCUSSED:

- 20,000 parents with disabilities
- Disability must impact health, safety, and welfare of the child

EFFECT OF COMMITTEE AMENDMENT: Clarifies that a court may only consider disabilities if they are endangering or will likely endanger the health safety and welfare of the child.

BACKGROUND: In determining custody of a minor child or parenting time as part of a divorce proceeding, a court must give primary consideration to the best interests and welfare of the child. In making this determination, the court is required to consider: (a) The emotional ties between the child and other family members; (b) The interest of the parties in and the attitude toward the child; (c) The desirability of continuing an existing relationship; (d) The abuse of one parent by the other; (e) The preference for the primary caregiver of the child; (f) The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child.

The Americans with Disabilities Act (42 U.S.C. 12102) defines “disability” as: (1) A physical or mental impairment that substantially limits one or more major life activities of such individual; (2) A record of such impairment; or (3) Being regarded as having such an impairment.