

SCS HCS HB 1758 -- CHILD CUSTODY, VISITATION RIGHTS, AND ADOPTION

(Vetoed by the Governor)

This bill allows any person having a parent/child relationship with a minor child who is not the child's biological or legal parent to petition a court for an order establishing custody and visitation rights to sustain and protect an ongoing relationship with the child. The provisions of Section 452.398, RSMo, must not be construed to affect the procedure for the termination of parental rights or to revive the rights of a natural parent whose rights have previously been terminated under Chapter 211.

A petition may be filed only if at least one of the natural parents is deceased, at least one of the natural parents is unknown, the whereabouts of at least one of the natural parents is unknown and unascertainable for a period of one year, the parental rights of at least one biological parent have been terminated, or the remaining parent has not had an ongoing parent/child relationship with the minor child in question for a period of one year prior to the filing of the petition.

The petitioner must establish by a preponderance of the evidence that an ongoing parent/child relationship exists or did exist. There will be a rebuttable presumption that the biological or legal parent acts in the best interests of the minor child. If a court determines that a relationship exists or did exist between the minor child and the petitioner and the parental presumption has been rebutted by a preponderance of the evidence or by clear and convincing evidence, a court may grant a petitioner visitation or custody rights if it is in the child's best interests and the court finds that the natural parent is unfit, unsuitable, or unable to be a custodian; the welfare of the child requires granting the custody or visitation rights; or the natural parent is listed in the Child Abuse and Neglect Central Registry. The court may order temporary visitation or contact rights pending a final order and a parenting plan, including an obligation of support. The bill prohibits the parental presumption from being used in any action to modify a judgment granted under these provisions.

If a military parent is required to be separated from a child due to deployment, a court cannot enter a final order under these provisions until 90 days after the deployment ends. Deployment or the potential for future deployment of a military parent cannot constitute grounds sufficient to support a custody or visitation order under these provisions. If a parent is required to be separated from his or her child due to employment and the parent provides ongoing support, the separation cannot constitute grounds sufficient to support a custody or visitation order under

these provisions.

The bill specifies that the race or ethnicity of the adoptive child, the child's biological parents, or the prospective adoptive parents must not be a consideration when determining the best interests of the child, the welfare of a child, the suitability and assessment of prospective adoptive parents, or the home of the prospective adoptive parents in adoptive placements. The Children's Division within the Department of Social Services must comply with specified federal placement requirements for any Native American child placed in protective custody.