

KANSAS OFFICE *of*
REVISOR *of* STATUTES

LEGISLATURE *of* THE STATE *of* KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Senate Committee on Judiciary
From: Jenna Moyer, Assistant Revisor of Statutes
Date: March 7, 2019
Subject: SB157 Bill Brief

SB 157 creates a presumption in favor of shared parenting time in a court’s order for a temporary parenting plan. This bill amends K.S.A. 23-3212, relating to temporary parenting plans. K.S.A. 23-3211 defines temporary parenting plan as “an agreement or order issued defining the legal custody, residency and parenting time to be exercised by parents with regard to a child between the time of filing of a matter in which a parenting plan may be entered, and any other provisions regarding the child’s care which may be in the best interest of the child, until a final order is issued.”

This bill would only apply to temporary parenting plans under K.S.A. 23-3212, creating a presumption that when a court is making an order for a temporary parenting plan “it is in the best interests of the child for fit, willing and able parents to have temporary joint custody and share equally in parenting time.” Generally, a presumption functions as a rule of law that allows a court to assume a fact is true until there is factual evidence to disprove the presumption.

An example of a presumption from the family law code is in an action regarding legal custody, residency or parenting time, if parents enter into a parenting plan, K.S.A. 23-3202 creates a presumption that such plan is in the best interests of the child. Such a presumption could be overcome if the court makes specific findings of fact stating why the plan is not in the child’s best interests.