

2017 Wyoming Legislative Session: Recent Developments in Family Law

by Alex H. Sitz III

In the 2017 legislative session there were eight (8) family law related bills presented including House Bills 18, 41, 91, 153, 161, 216, 256 and 260. Four of those bills passed and four of the bills failed, and this article will address those that should be of most interest to family law practitioners.

The first is **House Bill 161** which did pass, and has some practical significance. This bill made a change to Wyoming Statute § 20-2-107 related to the residency requirements to seek a divorce in Wyoming. The statute historically required the Plaintiff to be a resident of Wyoming for 60 days prior to filing a divorce action. That historical requirement made it difficult in a scenario where husband separated from the marriage and moved out of state for employment (i.e., North Dakota oil field) while his estranged wife and kids remained behind in Wyoming. If wife was reluctant to file a divorce action herself, and husband had been out of state for more than 60 days then it made it difficult for husband to seek a divorce. The difficulty was that husband could not file a divorce in his new state of residence and effectively deal with custody of his children because the new state lacked jurisdiction over the children. Therefore, House Bill 161 effectively solves that problem and will now read:

§ 20-2-207. RESIDENTIAL REQUIREMENTS GENERALLY FOR DIVORCE.

- (a) No divorce shall be granted unless one of the parties has resided in this state for more than sixty (60) days immediately preceding the time of filing the complaint, or the marriage was solemnized in this state and one of the parties has resided in this state from the time of the marriage until the filing of the complaint.

The second bill to note is **House Bill 256** which proposed amendments to the current child support guidelines set forth in W.S. § 20-2-304. The last amendment to the child support guidelines occurred in 2013, and although the 2017 proposed amendments failed, they will be studied in

the interim and we may see some changes to the child support calculations next year.

The third and final bill of interest was **House Bill 260**. Although the bill failed, this attempt to change Wyoming Statute § 20-2-201, in favor of shared custody arrangements was proposed for a second time. For those familiar with trying custody cases, this is the statute that sets forth the ten (10) factors a court shall consider in determining the best interests of a child. The following underlined language represents the proposed changes to subsection (d) and (j):

§ 20-2-201. DISPOSITION AND MAINTENANCE OF CHILDREN IN DECREE OR ORDER; ACCESS TO RECORDS.

- (d) The court shall order custody in well defined terms to promote understanding and compliance by the parties. Custody shall be crafted to promote the best interests of the children, and may include any combination of joint, shared or sole custody. The court shall enter an order of shared custody unless there is a preponderance of the evidence of any of the following that:

(i) Sole physical custody is in the best interests of the children;

(ii) The parties no longer reside within fifty (50) miles of each other and sole custody is the only practical arrangement;

(iii) The parties do not communicate with each other in a manner that ensures shared custody is in the best interest of the children.

- (j) For purposes of this section:

(i) "Joint legal custody" means both parents share the decision making rights, responsibilities and authority related to the health, education and welfare of the children;

(ii) "Joint physical custody" means the children physically reside with each parent for a substantially equal amount of time each calendar year, with a parental plan crafted to promote the best interests of the children;

(iii) "Shared custody" means a child custody arrangement that includes both joint legal custody and joint physical custody;

(iv) "Sole physical custody" means a child custody arrangement in which the children reside with one (1) parent the majority of each calendar year, subject to any visitation order made pursuant to W.S. 20-2-202.

This bill will also be studied in the interim, and we most likely will see it for a third time come the 2018 legislative session. This shared custody issue is a hotly debated topic at the forefront of many family law practices throughout the country right now. Although the Wyoming Supreme Court has historically prohibited shared custody scenarios because of its instability for children there appears to be some momentum gaining elsewhere that shared custody may be in the children's best interests unless proven otherwise. Regardless of which side of the fence you may be on in this hotly debated topic, we as Wyoming family law practitioners may see some significant changes coming in the future if the momentum continues here in our state. ●

