1st Sub. H.B. 107
JOINT CUSTODY MODIFICATIONS

SENATE FLOOR AMENDMENTS   AMENDMENT 2   MARCH 6, 2012 10:12 AM

Senator **Wayne L. Niederhauser** proposes the following amendments:

1. *Page 2, Line 45 through Page 3, Line 59*
    House Committee Amendments
    2-15-2012:

45   (b) [The court shall, in every case, consider joint custody but may award any form of

46   custody which is determined to be] There shall be a rebuttable presumption that joint legal

47   custody, as defined in Section 30-3-10.1, is in the best interest of the child[-]. **except in cases where there is:**

            (i) domestic violence in the home or in the presence of the child;

            (ii) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

            (iii) physical distance between the residences of the parents, making joint decision making

     impractical in certain circumstances; or

            (iv) any other factor the court considers relevant including those listed in this Section and Section

     30-3-10.2.   **{ so long as the**

48   **party who }**   **(c) The person who**   desires joint legal custody   **{ files }**   **shall file**   a proposed

     parenting plan in accordance with

49   Sections 30-3-10.8 and 30-3-10.9.   **{ The }**   **A**   presumption   **for joint legal custody**   may be rebutted

     by a showing by a

50   preponderance of the evidence that   **{ the following circumstances exist: }**   **it is not in the best interest of**

     the child.

51   Ĥ→ [(i) the parents were not married to each other;]

52   [(ii)]   **{ (i) ←Ĥ domestic violence in the home or in the presence of the child;**

53   Ĥ→ [(iii)] (ii) ←Ĥ special physical or mental needs of a parent or child, making joint**

53a   **legal custody**

54   **unreasonable;**

55   Ĥ→ [(iv)] (iii) ←Ĥ physical distance between the residences of the parents, making**

55a   **joint decision**

56   **making impractical in certain circumstances; or**

57   Ĥ→ [(v)] (iv) ←Ĥ any other factor the court considers relevant, including those listed in**

57a   **Ĥ→ this Section and ←Ĥ Section**

58   **30-3-10.2. }**

59   **{ (c) }**   **(d)**   The children may not be required by either party to testify unless the trier of fact

                    Renumber remaining Subsections accordingly