

Implications of HB 0155

Opens the door...to the courts' "psychological parent standard" and the "harm standard"

HB0155 was signed into law by Governor Gordon on February 27th, 2019 and goes into effect July 1st, 2019.

HB0155 **requires** judges/courts to now consider the "best interest of the child"...not "may consider", but "shall consider". Although one would presume that this concept would naturally apply to *all* children in custody cases, it is the FIRST time that Wyoming legislators have voted to include this specific language that protects the child in third party custody cases. This is a win for the thousands of Wyoming children being raised by third parties, *such as grandparents*, when the biological parents have long histories of "unfitness".

A biological parent that has been deemed "unfit" *by the court* to control the care and custody of their child, bears the status of an "unfit parent" until such time as the court finds that parent "fit". Therefore, should a parent bearing the status of "unfitness" return and file a motion to "terminate the existing guardianship", that parent can be "constitutionally" required to demonstrate that a "substantial, material change of circumstances has occurred" as not to pose "risk of harm" to the child before any reunification can be ordered.

Secondly,

....[w]here a child has been left by its parents in the care and custody of others, but the parents reclaim it *soon* afterwards, and the parents are competent to have its custody, the court gives more weight to the law of nature, which recognizes the force of parental affection, than to the probability of benefit to the child by leaving it where it is, even the probability of advantages which wealth and social position might bestow. **But where the parents surrender complete custody of an**

infant for such a long time that its interests and affections all attach to the person who fill the place of the parents, and the infant develops into a healthy and happy child, then if the parents seek to reclaim the child by judicial decree, the court should place the right of the parents subordinate to the right of those who performed the parental duties, for the ties of companionship strengthen by lapse of time, and upon the strength of those ties the welfare of the child largely depends.

“First, the parent *must* demonstrate his/her rehabilitation which eliminates the “substantial harm” threat to the child which existed at the time of initial judgement”. Second, the parent *must* establish that the adequate and stable environment in which the child was placed, with the nonparent as a result of the initial adjudication has materially changed.”

The list of court cases applying the “psychological parent standard” and, the “harm standard” across our nation are prolific.

WGAP is in the process of uploading a substantial ‘reference guide’ to recent court cases referencing ‘best interests of the child’ standards in third party custody hearings. If you would like the references sooner, you may request a package through our email address or phone.

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