

VPLC Opposes HB 69

- 1. HB 69 diminishes the “Best Interests of the Child” factors in favor of a parent’s arbitrary request for the judge’s assurances of “frequent and continuing contact with both parents so as to maximize the amount of time the minor child spends with each parent [...].”**
 - a. This bill removes the word, “consider,” in Line 14 and allows one parent's request for the judge’s assurance of “frequent and continuing contact...” to trump longstanding precedent requiring judges to consider all ten (10) of the “Best Interests of the Child” (BIC) factors.
 - b. The added language in Lines 14-16, “[...] the court shall, upon the request of either party, assure a minor child of frequent and continuing contact with both parents so as to maximize the amount of time the minor child spends with each parent,” immediately BEFORE the 10 BIC factors, especially after no longer requiring the court to consider said factors, unduly amplifies the importance of the amount of time each parent spends with the minor children in making a custody or visitation determination. The BIC factors take into consideration many other items besides the amount of time each parent has with their minor children.
- 2. Replacing “visitation” with “parenting time” in Lines 13-14, 31-32, and 44 is unnecessary and removes judicial discretion:** The immediately preceding section, 20-124.2(B)(1) already states “In any case or proceeding involving the custody or visitation of a child, as to a parent, the court may, in its discretion, use the phrase ‘parenting time’ to be synonymous with the term ‘visitation.’” HB 69 removes this discretion from judges and forces them to use the term “parenting time” instead of “visitation.”
- 3. Lines 15-16 “[...] so as to maximize the amount of time the minor child spends with each parent, except in cases where there is abuse, neglect, or other pressing safety concern to the child or one of the parents” uses different and less specific exemption factors than those that already exist in Factor 9 of the BIC factors.** Factor 9 of the BIC factors outlines the specific circumstances under which a judge may disregard Factor 6—the *propensity of each parent to actively support the child’s contact and relationship with the other parent, including whether a parent has unreasonably denied the other parent access to or visitation with the child.*” Those specific circumstances are “[a]ny history of (i) family abuse as that term is defined in § [16.1-228](#); (ii) sexual abuse; (iii) child abuse; or (iv) an act of violence, force, or threat as defined in § [19.2-152.7:1](#) that occurred no earlier than 10 years prior to the date a petition is filed.” The factors in HB 69’s Lines 15-16, “abuse, neglect, or other pressing safety concern to the child or one of the parents,” are too vague, differ from the specific considerations enumerated in Factor 9, and again, seem to unduly raise the significance of the amount of time each parent spends with the minor children in making a custody or visitation determination.

More Information: Susheela Varky • susheela@vplc.org • (804) 351-5274

4. **HB 69 is altogether unnecessary because "*frequent and continuing contact with both parents*," already exists under the immediately preceding factor, 20-124.2(B):** "In determining custody, the court shall give primary consideration to the best interests of the child. The court shall consider and may award joint legal, joint physical, or sole custody, and there shall be no presumption in favor of any form of custody. The court shall ***assure minor children of frequent and continuing contact with both parents, when appropriate***, and encourage parents to share in the responsibilities of rearing their children [...] [emphasis mine]." Judges are already tasked with "assur[ing] minor children frequent and continuing contact with both parents."

HB 69 language BEFORE the BIC factors and its removal of the word, "consider," lower the significance of the 10 BIC factors to an after-thought. One parent just needs to request an assurance of frequent and continuing contact with the minor children in order to have the 10, longstanding BIC factors disregarded. HB 69 gives an abusive parent carte-blanche in a custody or visitation determination, unravels longstanding precedent, and is unnecessary. For these reasons, VPLC opposes it.