

3-15-2019

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature

First Regular Session - 2019

Moved by Mortimer

Seconded by Rice

IN THE SENATE
SENATE AMENDMENT TO S.B. NO. 1124

AMENDMENT TO SECTION 2

1
2 On page 1 of the printed bill, in line 23, delete "when access to such
3 children"; delete line 24, and insert: ". The"; delete lines 30 and 31, and
4 insert: "rights with a child."; and in line 32, delete "As used in" and in-
5 sert: "For purposes of".

6 On page 2, in line 6, delete "'Parent" may include a stepparent"; delete
7 lines 7 and 8; following line 12, insert:

8 "(6) "Visitation" means contact with a grandchild or great-grandchild,
9 whether in-person contact, phone contact, electronic mail contact, social
10 media contact, or other means of in-person or virtual contact. "Visitation"
11 does not include legal or physical custody rights over the child and does
12 not include decision-making authority over the health, safety, education,
13 or general welfare of the child.";

14 delete lines 15 and 16, and insert: "rights with the child."; delete lines 17
15 through 30, and insert:

16 "(2) The district court shall apply a rebuttable presumption in favor
17 of a fit parent's decision regarding visitation, which presumption can only
18 be overcome by clear and convincing evidence that visitation would be in the
19 best interests of the child, in accordance with the factors set forth in sec-
20 tion 32-1804, Idaho Code.

21 (3) The district court shall give the parent's decision special weight
22 when considering the parent's evidence and the petitioner's rebuttal evi-
23 dence.

24 (4) The district court shall not substitute its opinion on visitation
25 for that of a fit parent.

26 (5) The district court may grant a petition and issue an order estab-
27 lishing reasonable visitation rights if the court finds that such visitation
28 is in the best interests of the child.

29 (6) In cases where both parents have custodial time with the child, the
30 district court shall award visitation only during the scheduled custody time
31 of the parent to whom the petitioner is a parent or grandparent, as defined in
32 this chapter.

33 (7) The district court may award reasonable attorney fees to the parent
34 when the court finds that the petition was brought or pursued unreasonably,
35 frivolously, or without foundation.

36 (8) The district court shall make findings of fact and conclusions of
37 law in support of visitation awards made under this chapter.";
38 in line 31, following "determining" insert: "whether visitation would be
39 in"; in line 36, following "length" insert: ", nature,"; in line 40, delete
40 "detriments and"; also in line 40, delete "or"; in line 41, delete "denying";
41 and in line 42, delete "or denying".

1 On page 3, delete lines 1 through 3, and insert:
2 "(8) The character and fitness of the petitioner;
3 (9) The relationship between the parent and the petitioner; and
4 (10) The wishes and preferences of the parent regarding visitation."