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## "Shared Parenting" Legislation

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### Introduction

Legislation aimed at instituting a presumption of equally shared child custody between parents separated or divorced is a frequently recurring—and vigorously debated—topic in the General Assembly. With some variations, the overlying theme of these proposed laws is generally to establish a presumption that, to the extent practicable, an award of custody shared equally between parents should be made unless there is evidence to suggest that, in fact, that type of arrangement is not in the child's best interests.

This issue brief will examine a history of custody law in Virginia, focusing on common law presumptions in favor of both the father and, later, the mother, leading up to the codification of a prohibition against a presumption in favor of either parent. This brief will also look at examples of legislation introduced across the United States and in Virginia, including HB 1351, introduced by Delegate Glenn Davis in 2018, which passed and became effective on July 1, 2018. Finally, the brief will further examine the arguments made both in favor of and against such types of legislation.

### History of Custody Law in Virginia

Presumptions favoring both the father and the mother existed at common law. Originally, the common law awarded custody to the father of the children, finding that the "father is the legal guardian of the infant; the law gives it to him against all the world. The right of the father . . . to the custody of legitimate minor children . . . is perfectly clear—too well settled to admit of dispute."<sup>1</sup> During this time, the analysis did not regard whether the mother of the child was a proper custodian but whether there were facts present showing a father's unfitness that warranted his being deprived of custody.<sup>2</sup>

By the late 19th century, Virginia adopted a standard to take into consideration the child's welfare and allow the mother to petition for custody.<sup>3</sup> While the father still held the paramount right to custody, the absolute right to custody found in *Latham* was no longer an unconditional right.<sup>4</sup>

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<sup>1</sup> *Latham v. Latham*, 71 Va. (30 Gratt.) 307, 331 (1787).

<sup>2</sup> *Id.* at 337.

<sup>3</sup> VA. CODE § 2610 (1887).

<sup>4</sup> *See, e.g., Taylor v. Taylor*, 103 Va. 750, 758 (1905).

Virginia Code § 31-15, later amended and since repealed,<sup>5</sup> was then enacted. This section prohibited the use of presumptions between parents and provided the underpinnings for the same modern day prohibition found in § 20-124.2, stating in relevant part that "the court or judge . . . in awarding the custody of the child to either parent . . . shall give primary consideration to the welfare of the child, and as between the parents, there shall be no presumption of law in favor of either."

Despite this legislative prohibition, a new judicial trend favoring the mother, found to be the "natural custodian of her child of tender years,"<sup>6</sup> emerged. While acknowledging that an emphasis should be placed upon the child's welfare,<sup>7</sup> the so-called "tender years doctrine" developed through case law and held that the mother should be given preference over the father in custody cases involving young children, assuming the mother is fit to raise the children and all other factors are equal between the parents.<sup>8</sup>

Beginning in the 1970s, the Supreme Court of Virginia acknowledged that a presumption could not be used because of the legislative prohibition against such a presumption found in § 31-15, but went on to find that the tender years doctrine was instead a permissible and rebuttable *inference* that could be utilized by a court in making custody determinations.<sup>9</sup> In 1982, the Supreme Court again emphasized the allowable "permissible inference" distinction from the "prohibited presumption" in both *Durette v. Durette*, 223 Va. 328, 288 S.E.2d 432 (1982) and *Leisge v. Leisge*, 223 Va. 688, 292 S.E.2d 352 (1982). In effect, the Court was seemingly able to work around the legislative prohibition by distinguishing the doctrine as merely an inference to uphold its use.

The tender years doctrine remained robust until the 1980s. In 1983, however, the General Assembly amended § 31-15 to expressly bar courts from applying any inference in favor of either parent, adding to the already existing prohibition against the use of a presumption in favor of either parent. While the Supreme Court has never addressed this additional language, the tender years doctrine was described as abolished by the Court of Appeals in the 1986 case of *Visikides v. Derr*, 3 Va. App. 69, 70 (1986), which went on to state that use of any tender years

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<sup>5</sup> This section was repealed by HB 2085 in 2011 (c. 113). The pertinent language in § 31-15 prohibiting presumptions or inferences in favor of either parent in custody decisions had already been codified in 1994 in § 20-124.2, pursuant to Senate Bill 88.

<sup>6</sup> *Mullen v. Mullen*, 188 Va. 259, 270-271, 49 S.E. 2d 349, 354 (1948).

<sup>7</sup> "The welfare of the infant is the primary, paramount, and controlling consideration of the court in all controversies between parents over the custody of their minor children." *Id.* at 269, 49 S.E. 2d at 354.

<sup>8</sup> "It is now generally recognized that the mother is the natural custodian of her child of tender years, and that if she is a fit and proper person, other things being equal, she should be given the custody in order that the child may receive the attention, care, supervision, and kindly advice, which arise from a mother's love and devotion, for which no substitute has ever been found. Human experience supports the policy that young children should not be deprived of the care of their mothers and of their love and tenderness, which may be counted upon most unfliningly." *Id.* at 270-271, 49 S.E. 2d at 354.

<sup>9</sup> See, e.g., *Harper v. Harper*, 217 Va. 477, 229 S.E.2d 875 (1976) ("Indeed, Code Sec. § 31-15...provides that a court, in a child custody case shall give primary consideration to the welfare of the child, [and] expressly states that there shall be no presumption of law in favor of either parent . . . [T]he principle . . . is no more than a permissible and rebuttable inference, that when the mother is fit, and other things are equal she, as the natural custodian, should have custody of a child of tender years." *Harper* at 479-480, 229 S.E.2d at 877).



inference is reversible error.<sup>10</sup> The 1994 enactment of § 20-124.2<sup>11</sup> contains the same express prohibitions against any presumption or inference in favor of one parent over another.

## Examples of Legislation Introduced to Codify a Shared Parenting Presumption

Since 1994, there have been numerous attempts to establish a presumption of joint physical and legal custody when determining custody of a child. None of these bills passed. The following are examples:

*HB 992 (Delegate Forbes, 1996)/ SB 496 (Senator Early, 1996)*

**Child custody.** Provides that there shall be a rebuttable presumption in favor of joint physical and legal custody when determining custody of a minor child in a divorce proceeding.

*HB 1500 (Delegate Devolites, 2000)*

**Custody of minor child.** Provides that when custody is at issue there shall be a rebuttable presumption in favor of the parents having joint legal custody. Joint legal custody is described in § 20-124.1 as follows: "both parents retain joint responsibility for the care and control of the child and joint authority to make decisions concerning the child even though the child's primary residence may be with only one parent."

*HB 2545 (Delegate Katzen, 2001)*

**Child custody and visitation.** Establishes a rebuttable presumption for joint custody and that each parent should be responsible for providing no less than one-third of the care and control of the child. The bill also provides that a court may not order that a parent's time with a child be supervised unless there is clear and convincing evidence of child abuse and neglect.

*HB 2957 (Delegate Robert B. Bell, 2007)*

**Child custody; joint physical custody.** Establishes a presumption that an award of joint legal and physical custody is in the best interests of the child and that such an award should be made in all custody cases where feasible.

*HB 1787 (Delegate Tata, 2011)*

**Shared child custody.** Establishes a presumption in child custody cases that an award of joint legal and physical custody, with physical custody, to the extent feasible, shared equally between the parties, is in the best interests of the child.

*HB 606 (Delegate LeMunyon, 2012)*

**Shared child custody.** Establishes a presumption in child custody cases that an award of joint legal custody, with physical custody, to the extent feasible, shared equally between the parties, is in the best interests of the child.

## Arguments in Favor of and in Opposition to Shared Parenting Legislation

Supporters of shared parenting legislation often point to studies suggesting that children indeed benefit from having both parents in their lives as much as possible in the wake of divorce

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<sup>10</sup> *Visikides v. Derr*, 3 Va. App. 69, 72 (1986).

<sup>11</sup> S.B. 88, 1994 Gen. Assem., Reg. Sess., Ch. 769 Acts of Assem.



or separation. Supporters seek to fight against what they feel is a judicial bias in favor of the "every other weekend"<sup>12</sup> model, or an instinct to award primary physical custody to the mother, as was the previously discussed trend found in the tender years doctrine line of jurisprudence.

Opponents to this legislation point out that custody and visitation decisions must be made with the best interests of the child as the goal post.<sup>13</sup> Because determining what is in the best interests of the child requires a fact-intensive, comprehensive inquiry<sup>14</sup> into the unique circumstances of each child and each parent, opponents argue that instituting a shared custody presumption shifts the focus away from this primary inquiry and assumes a certain arrangement is best when certain factors may be present that in fact make such an arrangement less than ideal. Opponents further argue that the Code of Virginia already prohibits parental presumptions in favor of either parent, citing specifically subsection B of § 20-124.2 that states, in relevant part:

"In determining custody, the court shall give primary consideration to the best interests of the child. . . . 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. *As between the parents, there shall be no presumption or inference of law in favor of either.*" (emphasis added)

To that end, opponents argue that shared parenting bills are therefore unnecessary in light of the arguments put forth by supporters of such legislation. Opponents submit that the Code provides statutory protections against judicial bias with the mandate against presumptions or inferences and promotes frequent contact with both parents, all while balancing the primary mandate to ascertain what is in the best interests of the child.

## **HB 1351 (Delegate Davis, 2018) and Other Legislative Efforts**

A statutory change was made to subsection B of § 20-124.2 pursuant to Delegate Davis's HB 1351 in 2018 as follows (language in italics is for language added pursuant to the legislation, and language stricken through is language removed from the subsection pursuant to the legislation):

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. As between the parents, there shall be no presumption or inference of law in favor of either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing by clear and convincing evidence that the best interest of the child would be served thereby award custody or visitation to any other person with a legitimate interest. ~~The court may award joint custody or sole custody.~~

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<sup>12</sup> The "every other weekend model" is a phrase typically used for a custody order specifying that one parent is the primary physical custodian, with the other parent receiving visitation rights every other weekend.

<sup>13</sup> The first sentence of subsection B of § 20-124.2 mandates that "[i]n determining custody, the court shall give primary consideration to the best interests of the child."; § 20-124.3 goes on to outline the 10 factors the court "shall consider" in determining the best interests of the child for purposes of determining custody or visitation.

<sup>14</sup> See VA. CODE § 20-124.3.



The enacted version of this bill was a variation on shared parenting bills proposed before, as no presumption of equal custody between parents was written into the law. Though vigorously debated and amended frequently as it went through the legislative process,<sup>15</sup> HB 1351 went into effect on July 1, 2018.

Similar to previously made arguments, proponents of this legislation argued for a need to ensure that a judge was considering all forms of custody arrangements prior to making a custody decision in order to bolster the preexisting statutory protections in place prohibiting a presumption or inference in favor of either parent.

More shared parenting legislative efforts were made during the 2019 Session pursuant to HB 2074 (Delegate J. Bell) and HB 2127 (Delegate Davis). Familiar arguments were again made both in favor of and against these bills, and neither passed the General Assembly. HB 2074 provided that there shall be a presumption that both parents be awarded equal time with a child subject to a custody and visitation order to the greatest extent practicable. The bill further provided that there shall be a presumption that both parents shall share equally in the responsibilities of raising their children. This bill was left in House Courts of Justice. As introduced, HB 2127 provided that, in considering the best interests of a child for the purposes of determining custody or visitation arrangements, the court shall assure minor children of frequent and continuing contact with both parents so as to maximize the time minor children spend with each parent, when appropriate. This bill was amended in both House Courts of Justice Subcommittee 2 and Senate Courts of Justice but ultimately failed to pass the Senate.

While clearly a topic of vigorous debate in Virginia, this issue has also elicited proposed legislation and discussion nationwide. The National Conference of State Legislatures (NCSL) has tracked various forms of shared parenting legislation from 2012–2019. A chart tracking this legislation is attached as Appendix A. As the chart shows, though there have been a large number of bill introductions relating to instituting shared custody presumptions, there have been few enactments.<sup>16</sup>

## Conclusion

A robustly debated topic in both Virginia and nationwide, shared parenting bills generally relate to codifying a presumption of equal custody between parents in a custody and visitation dispute. Supporters of these proposed changes to the law cite the studies showing benefits to children of divorced or separated parents who enjoy time equally with both parents. Opponents argue that presumptions of equal custody detract from the fact-intensive and statutorily necessitated best interests of the child inquiry that the court is required to employ. In light of the passage of HB 1351 in 2018, it is difficult to predict whether additional legislation will be introduced in upcoming sessions.

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<sup>15</sup> As introduced, HB 1351 (2018) provided, in relevant part, that when determining custody or visitation arrangements, the court shall consider whether joint legal or joint physical custody is appropriate in terms of what is in the best interests of a child. The bill further provided that the consideration of "joint physical custody" means the court shall consider custody and visitation arrangements that are reasonably constructed to maximize a child's time with each parent to the greatest extent possible in the child's best interests. The bill was amended in subcommittee 2 of House Courts of Justice, again in the Senate Courts of Justice, and again and finally in a conference committee that proposed the ultimately agreed upon and enacted legislative language. For bill history, *see* <http://lis.virginia.gov/cgi-bin/legp604.exe?181+sum+HB1351>

<sup>16</sup> HB 1351 is included in the NCSL chart as an example of the few enacted pieces of legislation.



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# APPENDIX A



NATIONAL CONFERENCE OF STATE LEGISLATURES

## Shared Parenting Legislation 2012-2019

NCSL's tracks legislation on shared/joint custody in our [Child Support and Family Law Legislation Database](#) under the "Custody and Visitation" Topic. You can also use the keyword box to search for "shared" or "joint" or "equal."

Below is a chart of legislation from 2012-2019 organized by state.

- 2012 & 2013: Enacted Only
- 2014-2019: Pending/Failed/Enacted

Also, included below are states statutes creating a presumption (rebuttable or not) that joint custody is in the best interest of the child. I also included some states where they specifically state that there is no preference or presumption for or against joint custody, instead, they provide for full judicial discretion in whether to award joint custody.

State	Statute or Bill Number/Status	Statutory Language/Bill Summary
Alabama	Ala. Code § 30-3-152	<p>(a) The court shall in every case consider joint custody but may award any form of custody which is determined to be in the best interest of the child. In determining whether joint custody is in the best interest of the child, the court shall consider the same factors considered in awarding sole legal and physical custody and all of the following factors:</p> <p>(1) The agreement or lack of agreement of the parents on joint custody.</p> <p>(2) The past and present ability of the parents to cooperate with each other and make decisions jointly.</p> <p>(3) The ability of the parents to encourage the sharing of love, affection, and contact between the child and the other parent.</p> <p>(4) Any history of or potential for child abuse, spouse abuse, or kidnapping.</p> <p>(5) The geographic proximity of the parents to each other as this relates to the practical considerations of joint physical custody.</p> <p>(b) The court may order a form of joint custody without the consent of both parents, when it is in the best interest of the child.</p> <p><b>(c) If both parents request joint custody, the presumption is that joint custody is in the best interest of the child.</b> Joint custody shall be granted in the final order of the court unless the court makes specific findings as to why joint custody is not granted.</p>
	2018 SB 211 (Failed-Adjourned)	<p>This bill would specify that there is a rebuttable presumption that joint custody is in the best interest of the child, and this rebuttable presumption may be overcome only by clear and convincing evidence, set forth in written findings of fact, that joint custody is not in the best interest of the child.</p> <p>This bill would establish factors to be considered when determining any custody arrangement that does not award joint custody.</p>



	2018 HB 431 (Failed-Adjourned)	This bill would specify that there is a rebuttable presumption that joint custody is in the best interest of the child, and this rebuttable presumption may be overcome only by clear and convincing evidence, set forth in written findings of fact, that joint custody is not in the best interest of the child. This bill would establish factors to be considered when determining any custody arrangement that does not award joint custody.
Alaska	Alaska Stat. § 25.20.060	(b) Neither parent, regardless of the question of the child's legitimacy, is entitled to preference in the awarding of custody. (c) The court may award shared custody to both parents if shared custody is determined by the court to be in the best interests of the child. An award of shared custody shall assure that the child has frequent and continuing contact with each parent to the maximum extent possible.
	2018 HB 368 (Failed-Adjourned)	There is a rebuttable presumption that shared physical custody, in which the child resides with each parent for 50 percent of the year, and joint legal custody of the child is in the best interests of the child. The presumption may be overcome by a preponderance of the evidence that it is not in the best interests of the child to reside with a parent for 50 percent of the year or for a parent to have legal custody of the child.
	2019 HB 85 (Failed-Adjourned)	Relates to shared child custody; relates to relocation of a child out of state; relates to a presumption of the best interests of the child in child custody and visitation determinations.
Arizona	2017 HB 2296 (Failed)	Section 25-403, Arizona Revised Statutes, is amended to read: A. The court shall determine legal decision-making and parenting time, either originally or on petition for modification, in accordance with the best interests of the child. EXCEPT AS PROVIDED IN SECTIONS 25-403.03, 25-403.04 AND 25-403.05, THERE IS A REBUTTABLE PRESUMPTION THAT JOINT LEGAL DECISION-MAKING AND EQUAL PARENTING TIME ARE IN THE BEST INTERESTS OF THE CHILD.
Arkansas	Ark. Code § 9-13-101  2013 SB 901 (Enacted)	(a)(1)(A)(i) In an action for divorce, the award of custody of a child of the marriage shall be made without regard to the sex of a parent but solely in accordance with the welfare and best interest of the child. (ii) In determining the best interest of the child, the court may consider the preferences of the child if the child is of a sufficient age and mental capacity to reason, regardless of chronological age. (iii) In an action for divorce, an award of joint custody is favored in Arkansas. (B) When a court order holds that it is in the best interest of a child to award custody to a grandparent, the award of custody shall be made without regard to the sex of the grandparent. (b)(1)(A)(i) When in the best interest of a child, custody shall be awarded in such a way so as to assure the frequent and continuing contact of the child with both parents consistent with subdivision (a)(1)(A) of this section. (ii) To this effect, the circuit court may consider awarding joint custody of a child to the parents in making an order for custody.
California	Cal. Fam. Code § 3040	(a) Custody should be granted in the following order of preference according to the best interest of the child as provided in Sections 3011 and 3020: (1) To both parents jointly pursuant to Chapter 4 (commencing with Section 3080) or to either parent. In making an order granting custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child frequent and continuing contact with the

		<p>noncustodial parent, consistent with Sections 3011 and 3020, and shall not prefer a parent as custodian because of that parent's sex. The court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order.</p> <p>(2) If to neither parent, to the person or persons in whose home the child has been living in a wholesome and stable environment.</p> <p>(3) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.</p> <p>(b) The immigration status of a parent, legal guardian, or relative shall not disqualify the parent, legal guardian, or relative from receiving custody under subdivision (a).</p> <p>(c) This section <b>establishes neither a preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody</b>, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.</p> <p>(d) In cases where a child has more than two parents, the court shall allocate custody and visitation among the parents based on the best interest of the child, including, but not limited to, addressing the child's need for continuity and stability by preserving established patterns of care and emotional bonds. The court may order that not all parents share legal or physical custody of the child if the court finds that it would not be in the best interest of the child as provided in Sections 3011 and 3020.</p>
	Cal. Fam. Code § 3080	There is a presumption, affecting the burden of proof, that joint custody is in the best interest of a minor child, subject to Section 3011, where the parents have agreed to joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child.
Colorado	2015 SB 129 (Failed)	Concerns preserving the parent-child relationship in domestic relations actions. Requires, if <b>equal parenting time</b> is not orders, the court to include specific findings of father that support why the order is in the best interests of the child.
Connecticut	Conn. Gen. Stat. § 46b-56a	<p>(a) For the purposes of this section, “joint custody” means an order awarding legal custody of the minor child to both parents, providing for joint decision-making by the parents and providing that physical custody shall be shared by the parents in such a way as to assure the child of continuing contact with both parents. The court may award joint legal custody without awarding joint physical custody where the parents have agreed to merely joint legal custody.</p> <p>(b) There shall be a <b>presumption, affecting the burden of proof, that joint custody is in the best interests of a minor child where the parents have agreed to an award of joint custody</b> or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage. If the court declines to enter an order awarding joint custody pursuant to this subsection, the court shall state in its decision the reasons for denial of an award of joint custody.</p>
	2013 HB 6685 (Enacted)	Task force to determine whether the state should adopt a presumption of shared custody.
	2017 HB 6645 (Failed)	Creates a <b>presumption in favor of shared parenting</b> in cases involving the custody of a child, establishes parental access equality in cases involving the custody of a minor child.
	2017 HB 5989 (Failed)	That section 46a-56a of the general statutes be amended to provide that there shall be no presumption in ordering disproportionate parenting time and parental responsibility to one parent that such an order is in the best

		interests of a minor child when both parents are capable and are seeking substantially equal or greater parenting time and responsibility, except that the court may order, based on the facts of the case, that the best interests of the child require that parenting time and parental responsibility be disproportionately awarded to one parent.
	2019 HB 6104 (Failed)	Establishes a task force to study whether there should be a presumption in favor of equal parenting time in child custody matters; studies whether adoption of an equal parenting time law would serve the best interests of the state's children.
District of Columbia	D.C. Code § 16-914	(2) Unless the court determines that it is not in the best interest of the child, the court may issue an order that provides for frequent and continuing contact between each parent and the minor child or children and for the sharing of responsibilities of child-rearing and encouraging the love, affection, and contact between the minor child or children and the parents regardless of marital status. <b>There shall be a rebuttable presumption that joint custody is in the best interest of the child or children, except</b> in instances where a judicial officer has found by a preponderance of the evidence that an intrafamily offense as defined in § 16-1001(8), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Official Code § 4-1341.01), or where parental kidnapping as defined in D.C. Official Code section 16-1021 through section 16-1026 has occurred. There shall be a rebuttable presumption that joint custody is not in the best interest of the child or children if a judicial officer finds by a preponderance of the evidence that an intrafamily offense as defined in § 16-1001(8), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Official Code § 4-1341.01), or where parental kidnapping as defined in D.C. Official Code section 16-1021 through section 16-1026 has occurred.
Florida	2015 SB 1242 (Failed)	<b>Creates a presumption that approximately equal time-sharing</b> by both parents is in the best interests of the child among other provisions related to alimony.
	2016 SB 250 (Failed)	Relates to family law, creates <b>presumption that approximately equal time-sharing by both parents is in best interest of child</b> , revises finite list of factors that court must evaluate when determining whether presumption of approximately equal time-sharing is overcome, requires court order to be supported by written findings of fact.
	2016 HB 553 (Failed)	Relates to family law; creates <b>presumption that approximately equal time-sharing by both parents is in best interest of child</b> ; revises finite list of factors that court must evaluate when determining whether presumption of approximately equal time-sharing is overcome; requires court order to be supported by written findings of fact.
	2016 SB 668 (Vetoed)	Relates to family law, creates <b>presumption that approximately equal time-sharing by both parents is in best interest of child</b> , revises finite list of factors that court must evaluate when determining whether

		presumption of approximately equal time-sharing is overcome, requires court order to be supported by written findings of fact.
Georgia	Ga. Code § 19-9-3	(a)(1) In all cases in which the custody of any child is at issue between the parents, there shall be no prima-facie right to the custody of the child in the father or mother. <b>There shall be no presumption in favor of any particular form of custody, legal or physical, nor in favor of either parent.</b> Joint custody may be considered as an alternative form of custody by the judge and the judge at any temporary or permanent hearing may grant sole custody, joint custody, joint legal custody, or joint physical custody as appropriate.
Hawaii	2014 SB 820 (Failed)	Requires a guardian ad litem to fairly assess each parent's ability to care for a child in contested custody cases, Requires a guardian ad litem to make a recommendation for joint custody to the family court if both parents are found to be capable and willing to share in parenting responsibilities, and if it is in the best interests of the child.
	2016 HB 1449 (Failed)	Requires that in a divorce or separation action that the court issue a temporary custody order effective for the pendency of the action upon the request of a party; requires that parties who live in the same county or school district share custody and visitation equally, subject to certain limitations
	2016 HB 624 (Failed)	If parents live in the same county or school district, <b>equal parenting time is in the best interest of the child.</b> If they don't live in the same county or school district, the court has discretion but shall consider frequent, continuing, and meaningful contact of the child with each parent.
	2019 HB 107 (Pending)	Clarifies the factors under which the family court awards custody and visitation of a minor child to ensure parental parity. <b>Creates presumption that approximately equal time-sharing by both parents is in best interest of child.</b>
Idaho	Idaho Code § 32-717B	(1) "Joint custody" means an order awarding custody of the minor child or children to both parents and providing that physical custody shall be shared by the parents in such a way as to assure the child or children of frequent and continuing contact with both parents. The court may award either joint physical custody or joint legal custody or both as between the parents or parties as the court determines is for the best interests of the minor child or children. If the court declines to enter an order awarding joint custody, the court shall state in its decision the reasons for denial of an award of joint custody. (2) "Joint physical custody" means an order awarding each of the parents significant periods of time in which a child resides with or is under the care and supervision of each of the parents or parties. Joint physical custody shall be shared by the parents in such a way to assure the child a frequent and continuing contact with both parents but does not necessarily mean the child's time with each parent should be exactly the same in length nor does it necessarily mean the child should be alternating back and forth over certain periods of time between each parent. The actual amount of time with each parent shall be determined by the court. (3) "Joint legal custody" means a judicial determination that the parents or parties are required to share the decision-making rights, responsibilities and authority relating to the health, education and general welfare of a child or children.

		<p>(4) Except as provided in subsection (5), of this section, absent a preponderance of the evidence to the contrary, there <b>shall be a presumption that joint custody is in the best interests of a minor child or children.</b></p> <p>(5) There shall be a presumption that joint custody is not in the best interests of a minor child if one (1) of the parents is found by the court to be a habitual perpetrator of domestic violence as defined in section 39-6303, Idaho Code.</p>
	2019 HB 197 (Failed-Adjourned)	Amends existing law to revise provisions regarding child custody to emphasize equal, shared parenting time.
Illinois	2014 HB 4124 (Failed)	Declares that it is in the best interests of the child to have the minimum amount of time with each parent. The minimum amount is 35%.
	2014 HB 5425 (Failed)	Amends the Marriage and Dissolution of Marriage Act, list of purposes of the Act, adds: continuing existing child-parent relationships, recognizes that the <b>involvement of each parent for equal time and not less than 35% of residential parenting time per week is presumptively in the children's best interests</b> , provides that the court shall allocate parenting time according to the child's best interests and that it is presumed that it is in the child's best interests to award equal time to each parent.
	2017 HB 4113 (Failed)	Amends the Marriage and Dissolution of Marriage Act, adds recognizing that the involvement of each parent for equal time is presumptively in the children's best interests to the purposes of this act, deletes language providing that nothing in the act requires that each parent be allocated decision-making responsibilities, provides that it is presumed that it is in the child's best interests to award equal time to each parent.
	2019 HB 185 (Pending)	Amends the Marriage and Dissolution of Marriage Act, adds recognizing that the involvement of each parent for equal time is presumptively in the children's best interests, deletes language providing that nothing in the Act requires that each parent be allocated decision making responsibilities, provides that there is a rebuttable presumption in favor of equal parenting time.
Indiana	2017 SB 36 (Failed)	Relates to physical custody and parenting time, adds a <b>rebuttable presumption in child custody proceedings that joint physical custody is in the best interests of the child</b> , and equal parenting time is in the best interests of the child, provides that the default joint physical custody or parenting time schedule is to alternate weekly physical custody of the child, unless the parents submit an alternative schedule that is approved by the court.
	2019 SB 87 (Failed-Adjourned)	Relates to physical custody and parenting time, adds a rebuttable presumption in child custody proceedings that joint physical custody is in the best interests of the child, and equal parenting time is in the best interests of the child, provides that the default joint physical custody or parenting time schedule is to alternate weekly physical custody of the child, unless the parents submit an alternative schedule that is approved by the court.
	2019 HB 1306 (Failed-Adjourned)	Relates to presumption in favor of joint physical custody, provides that an award of joint legal custody of a child creates a rebuttable presumption in favor of awarding joint physical custody of the child to the individuals who are awarded joint legal custody, provides that a finding by the court that a history of child abuse or neglect exists with respect to the child is sufficient to rebut the presumption in favor of joint physical custody.

	2019 HB 1277 (Failed-Adjourned)	Relates to family and juvenile law matters; establishes a rebuttable presumption in child custody proceedings that an award of joint physical custody is in the best interest of the child.
Iowa	2016 HB 2372 (Failed)	Relates to the <b>preference for joint physical care</b> of a child in awarding custody.
	2016 HB 2106 (Failed)	Requires the court to provide for joint custody of the child and provides for instances when one party does not agree to joint custody and domestic violence considerations.
	2016 HB 2090 (Failed)	This bill directs that if joint legal custody is awarded to both parents, the court shall award joint physical care to both joint custodial parents, unless the court determines joint physical care is not in the best interest of the child. Current law authorizes but does not require the court to award joint physical care to both joint custodial parents.
	2016 HB 442 (Failed)	Requires the court to provide for joint custody unless the court cites clear and convincing evidence pursuant to the factors in subsection 3, that joint custody is unreasonable and not in the best interest of the child to the extent that the legal custodial relationship between the child and a parent should be severed.
	2017 SB 190 (Failed-Adjourned)	Relates to the <b>preference for joint custody and joint physical care</b> of a child in awarding custody.
	2017 SB 72 (Failed-Adjourned)	Relates to the consideration of gender of the parent in the awarding of joint custody of a child.
	2017 HB 71 (Failed-Adjourned)	Relates to the <b>preference for joint custody and joint physical care</b> of a child in awarding custody.
	2018 SB 2374 (Failed-Adjourned)	Relates to the awarding of joint custody and joint physical care.
	2019 SB 11 (Pending)	Relates to the awarding of joint custody and joint physical care. The awarding of joint legal custody to both parents, creates a rebuttable presumption in favor of the awarding of joint physical care to both joint custodial parents.
	2019 SB 571 (Pending)	Relates to the awarding of joint custody and joint physical care.
Kansas	2018 SB 257 (Failed-Adjourned)	Establishes a presumption of a child's equal time with parents during court determinations of legal custody, residency or parenting time.
	2018 HB 2529 (Failed-Adjourned)	Creates a presumption of child's equal time with parents during court determinations of legal custody, residency or parenting time.
	2019 HB 2196 (Pending)	Creates a presumption in favor of shared parenting time for temporary orders.
	2019 SB 157 (Pending)	Creates a presumption in favor of shared parenting time for temporary orders.
Kentucky	2014 HB 114 (Failed)	Creates a <b>presumption of joint custody</b> in temporary custody orders and to have prior parental custody agreements become the court's orders, creates a presumption of equal visitation time in temporary custody orders.
	2015 SB 50 (Failed)	Relates to child support, establishes conditions for adjusting the presumptive child support award under the child support guidelines table on the basis of a shared parenting order for physical custody of a child, exempts children receiving public assistance, establishes new amounts in the child support guidelines table and delete the old amounts.

	2015 SB 42 (Failed)	Relates to temporary custody orders; creates a <b>presumption of joint custody in temporary custody</b> orders and to have prior parental custody agreements become the court's orders.
	2016 HB 385 (Failed)	Creates a <b>presumption of joint custody</b> in temporary custody orders, requires prior parental custody agreements to become the court's orders if those agreements provide for the welfare of the child, repeals reenact KRS 405.021 to grant visitation to grandparents if it is in the child's best interest based on listed factors.
	2017 HB 492 (Enacted)  Ky. Rev. Stat. § 403.280	(1) A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in KRS 403.350. The court may award temporary custody under the standards of KRS 403.270 after a hearing, or, if there is no objection, solely on the basis of the affidavits. If the parents or a de facto custodian joined under subsection (9) of this section present a temporary custody agreement and mutually agreed plan for parenting time, and the court confirms that the agreement adequately provides for the welfare of the child, the agreement shall become the temporary custody order of the court. (2) In making an order for temporary custody, there shall be a presumption, rebuttable by preponderance of evidence, that the parents or a de facto custodian joined under subsection (9) of this section shall have temporary joint custody and shall share equally in parenting time.
	2018 HB 528 (Enacted)	Creates a presumption that joint custody and equally shared parenting time is in the best interest of the child, and to require the court to consider the motivation of the adults involved when determining the best interest of the child for custody orders; specifies that the presumption of joint custody and equal parenting time is in the best interest of the child; allows a parent not granted custody or shared parenting time to petition for reasonable visitation rights.
Maine	2015 SB 129 (Failed)	This bill requires the court to order shared parenting when parents of minor children separate unless the court finds proof of domestic abuse, drug use or neglect in the family. It requires the court to start with the <b>presumption of shared parenting</b> when determining the best interest of the child and to incorporate into the order the sharing of parental rights and responsibilities agreed to by the parents unless there is proof of domestic abuse, drug use or neglect in the family.
Maryland	2015 HB 1083 (Failed)	Repeals references to the terms "child custody" and "visitation" in specified instances and substituting the terms "legal decision making" and "parenting time" in specified instances; requires the court, in determining the appropriate allocation of legal decision making or parenting time between the parties, to consider specified factors; authorizes the court to consider specified factors; specifies that specified factors are not relevant, except under specified circumstances.
	2015 HB 888 (Failed)	Creates a <b>rebuttable presumption in favor of joint legal and physical custody</b> for approximately equal periods of time.
	2016 HB 1386 (Failed)	Creates a <b>rebuttable presumption</b> in child custody proceedings that <b>joint custodial arrangements are in the best interests of a child</b> , authorizes a court to consider specified factors when determining the best interests of the child, authorizes the court to award sole custody when joint a custodial arrangement is determined by a preponderance of evidence not to be in the best interests of the child, requires the court to enter specified information on the record.

	2016 SB 962 (Failed)	Creates a <b>rebuttable presumption</b> in child custody proceedings <b>that joint custodial arrangements are in the best interests of a child</b> , authorizes a court to consider specified factors when determining the best interests of the child, authorizes the court to award sole custody when a joint custodial arrangement is determined by a preponderance of evidence not to be in the best interests of the child, requires the court to enter specified information on the record.
	2017 HB 508 (Failed)	Repeals references to the terms child custody and visitation and substituting the terms legal decision making and parenting time in specified instances, requires the court, in determining the appropriate allocation of legal decision making or parenting time between the parties, to consider specified factors, authorizes the court to award joint legal decision making to both parties under specified circumstances.
	2017 SB 368 (Failed)	Repeals references to the terms child custody and visitation and substituting the terms legal decision making and parenting time in specified instances, requires the court, in determining the appropriate allocation of legal decision making or parenting time between the parties, to consider specified factors, authorizes the court to award joint legal decision making to both parties under specified circumstances.
	2018 SB 684 (Failed)	Repeals references to the terms ""child custody"" and ""visitation"" and substituting the terms ""legal decision making"" and ""parenting time"" in certain instances, requires the court, in determining the appropriate allocation of legal decision making or parenting time between the parties, to consider certain factors, authorizes the court to award joint legal decision making to both parties under certain circumstances.
	2018 HB 1032 (Failed)	Repeals references to the terms ""child custody"" and ""visitation"" and substituting the terms ""legal decision making"" and ""parenting time"" in certain instances, requires the court, in determining the appropriate allocation of legal decision making or parenting time between the parties, to consider certain factors, authorizes the court to award joint legal decision making to both parties under certain circumstances.
Massachusetts	Mass. Gen. Laws ch. 208, § 31	There shall be no presumption either in favor of or against shared legal or physical custody at the time of the trial on the merits, except as provided for in section 31A.
	2014 HB 1688 (Failed)	Provides that in separation and divorce proceedings, it <b>shared custody shall be a presumption of the court.</b>
	2014 HB 1349 (Failed)	Amends Massachusetts General Laws to provide that there shall be a <b>presumption of shared legal custody and shared physical custody</b> of any minor child of the parties.
	2016 HB 1329 (Failed)	<b>Creates a presumption</b> that, absent emergency conditions, or abuse or neglect of said child, the parents shall have <b>shared legal custody and shared physical custody</b> of said child.
	2016 SB 741 (Failed)	Relates to parental choice of terminology in certain domestic relations matters.
	2017 HB 811 (Failed-Adjourned)	Relates to shared parenting in cases of divorce.
	2017 HB 3045 (Failed-Adjourned)	Relates to determining the best interest of children in Probate and Family Court decisions.
	2017 SB 775 (Failed-Adjourned)	Relates to determining the best interest of children in probate and family court.
	2017 SB 930 (Failed-Adjourned)	Shares custody of minor children of divorced or separated parents



Michigan	2014 HB 4120 (Failed)	<b>Mandates joint custody</b> in every custody dispute between parents, except in certain circumstances.
	2016 HB 4141 (Failed)	<b>Mandates joint custody</b> in every custody dispute between parents except in certain circumstances. If joint custody is ordered, the court shall issue a specific parenting time schedule for each parent and shall provide that physical custody is shared by the parents for specific and substantially <b>equal periods of time.</b>
	2017 HB 4691 (Failed-Adjourned)	Mandates joint custody in every custody dispute between parents except in certain circumstances.
Minnesota	2014 HB 2722 (Enacted)	<p>Minn. Stat. Ann. § 518.17 Declares that there is <b>no presumption for or against joint physical custody</b>, except when domestic abuse has occurred between the parents. Details that the court should consider all of the enumerated factors when considering custody and should not consider one to the exclusion of the others. Clarifies that disagreement between the parties does not indicate their ability to raise their children and details how the court should handle disagreement between the parties. Requires consideration of the child’s developmental needs when determining the child’s best interest for modification of a parenting plan.</p> <p>Minn. Stat. Ann. § 518.156 Subdivision 1. Procedure. In a court of this state which has jurisdiction to decide child custody matters, a child custody proceeding is commenced by one or both parents: (1) by filing a petition or a joint petition for dissolution or a petition or a joint petition for legal separation in the county where either spouse resides pursuant to section 518.09; (2) where paternity has been recognized under section 257.75, by filing a petition, or if the parties agree on all issues related to custody, parenting time, and child support, by filing a joint petition, agreement, and proposed order establishing custody, parenting time, and child support, in the county where the child is permanently a resident or where the child is found or where an earlier order for custody of the child has been entered; or (3) where a decree of dissolution or legal separation has been entered or paternity has been adjudicated under section 257.66, by filing a motion seeking custody or parenting time with the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered. Subd. 2. Required notice. Written notice of a child custody or parenting time or visitation proceeding shall be given to the child's parent, guardian, and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties. Subd. 3. Summons; joint petition. No summons shall be required if a joint petition is filed and no summons is needed where a decree of dissolution or legal separation has been entered or paternity has been adjudicated under section 257.66....</p>
	2017 HB 2699 (Failed)	PARENTS ARE ENTITLED TO A PRESUMPTION OF JOINT LEGAL CUSTODY AND JOINT PHYSICAL CUSTODY WITH EQUAL SHARED PARENTING. THIS MEANS EACH PARENT HAS AT LEAST 45.1 PERCENT PARENTING TIME, UNLESS THE PARENTS AGREE OTHERWISE. CERTAIN EXCEPTIONS AND

		OTHER PROVISIONS APPLY UNDER MINNESOTA STATUTES, SECTIONS 518.169 TO 518.175.
	2017 HB 2545 (Failed)	(9) The court shall use a rebuttable presumption that upon request of either or both parties, joint legal <u>and physical</u> custody is in the best interests of the child. However, the court shall use a rebuttable presumption that joint legal custody or joint physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents. In determining whether the presumption is rebutted, the court shall consider the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs. Disagreement alone over whether to grant sole or joint custody does not constitute an inability of parents to cooperate in the rearing of their children as referenced in paragraph (a), clause (12).
	2017 HB 2413 (Failed)	9) The court shall use a rebuttable presumption that upon request of either or both parties, joint legal <u>and physical</u> custody is in the best interests of the child. However, the court shall use a rebuttable presumption that joint legal custody or joint physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents. In determining whether the presumption is rebutted, the court shall consider the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs. Disagreement alone over whether to grant sole or joint custody does not constitute an inability of parents to cooperate in the rearing of their children as referenced in paragraph (a), clause (12).
	2017 HB 2603 (Failed)	(10) The court shall maximize the time a child spends with each parent to the highest degree logistically possible for any parent who requests maximized parenting time that does not impede on the other parent's right to maximize parenting time, except with evidence and detailed findings by the court of the following:
	2017 HB 3295 (Enacted)	allows joint petitions for custody and parenting time to be filed in legal separations and by unmarried parents.
	2018 SB 3192 (Failed)	allows joint petitions for custody and parenting time to be filed in legal separations and by unmarried parents.
	2019 HB 46 (Pending)	Relates to family law, modifies custody and parenting time presumptions.
Mississippi	Miss. Code § 93-5-24	<p>(2) Joint custody may be awarded where irreconcilable differences is the ground for divorce, in the discretion of the court, upon application of both parents.</p> <p>(3) In other cases, joint custody may be awarded, in the discretion of the court, upon application of one or both parents.</p> <p>(4) There <b>shall be a presumption that joint custody is in the best interest of a minor child where both parents have agreed to an award of joint custody.</b></p> <p>(5)(a) For the purposes of this section, "joint custody" means joint physical and legal custody.</p> <p>(b) For the purposes of this section, "physical custody" means those periods of time in which a child resides with or is under the care and supervision of one (1) of the parents.</p> <p>(c) For the purposes of this section, "joint physical custody" means that each of the parents shall have significant periods of physical custody. Joint</p>

		<p>physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents.</p> <p>(d) For the purposes of this section, “legal custody” means the decision-making rights, the responsibilities and the authority relating to the health, education and welfare of a child.</p> <p>(e) For the purposes of this section, “joint legal custody” means that the parents or parties share the decision-making rights, the responsibilities and the authority relating to the health, education and welfare of a child. An award of joint legal custody obligates the parties to exchange information concerning the health, education and welfare of the minor child, and to confer with one another in the exercise of decision-making rights, responsibilities and authority.</p>
	2017 SB 2406 (Failed)	Creates a <b>rebuttable presumption that joint legal and physical custody in both parents is in the best interest of the minor children.</b>
	2019 SB 2424 (Failed)	Creates a rebuttable presumption that joint legal and physical custody in both parents is in the best interest of the minor children.
Missouri	2015 HB 1131 (Failed)	Clarifies that if both parents are awarded joint physical and joint legal custody equally, neither parent shall have an obligation to pay child support to the other parent. Medical expenses shall be paid by both parents equally, with the parent providing health insurance for the child to receive a credit for the amount of premiums paid for the child's health care coverage
	2015 SB 565 (Failed)	The court shall determine custody by <b>awarding joint physical and joint legal custody</b> of the child to both parents equally in the absence of any compelling circumstances, unless both parents otherwise agree to a custody arrangement.
	2016 HB 2055 (Failed)	Redefines joint physical custody to mean an order awarding each of the parents’ approximate and reasonably equal periods of time and <b>creates a presumption that a parenting plan that equalizes</b> to the highest degree the amount of time the child may spend with each parent is in the best interest of the child.
	2016 SB 964 (Failed)	Redefines joint physical custody to mean an order awarding each of the parents’ approximate and reasonably equal periods of time and <b>creates a presumption that a parenting plan that equalizes</b> to the highest degree the amount of time the child may spend with each parent is in the best interest of the child.
	2017 SB 377 (Failed)	Adds a rebuttable presumption that equal or approximately equal parenting time with each parent is in the best interests of the child.
	2017 HB 724 (Failed)	Establishes a rebuttable presumption that child custody arrangements that award equal parenting time are in the best interest of the child.
	2018 HB 1667 (Failed-Adjourned)	Establishes a rebuttable presumption that child custody arrangements that award equal parenting time are in the best interest of the child.
	2018 HB 2591 (Failed-Adjourned)	Establishes a rebuttable presumption that child custody arrangements that award equal parenting time are in the best interest of the child.
	2018 SB 645 (Failed-Adjourned)	There shall be a rebuttable presumption that an award of equal or approximately equal parenting time to each parent giving the child equal or approximately equal access to both parents is in the best interests of the child. Such presumption is rebuttable only by preponderance of the evidence in accordance with the factors contained in subdivisions (1) to (8) of this subsection.
	2019 SB 14 (Pending)	There shall be a rebuttable presumption that an award of equal or approximately equal parenting time to each parent is in the best interests

		of the child. Such presumption is rebuttable only by a preponderance of the evidence in accordance with all relevant factors including, but not limited to, the factors contained in subdivisions (1) to (8) of this subsection.
	2019 HB 229 (Pending)	Establishes a rebuttable presumption that child custody arrangements are awarded to equal parenting time which is in the best interest of the child.
Nebraska	2015 LB 437 (Failed)	The court is encouraged to adopt a parenting plan that provides for <b>joint legal custody</b> and maximizes the parenting time for each parent. The court shall not prefer a parent's proposed plan because of the parent's or child's gender. In no event shall the court adopt a parenting plan in which one parent has less than thirty-five percent of the total annual parenting time in certain circumstances.
Nevada	Nev. Rev. Stat. § 125C.002  2015 AB 263 (Enacted)	1. When a court is making a determination regarding the legal custody of a child, there is a presumption, affecting the burden of proof, that joint legal custody would be in the best interest of a minor child if: (a) The parents have agreed to an award of joint legal custody or so agree in open court at a hearing for the purpose of determining the legal custody of the minor child; or (b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child. 2. The court may award joint legal custody without awarding joint physical custody.
	2015 AB 98 (Failed)	There is a <b>presumption, affecting the burden of proof, that joint legal custody and joint physical custody would be in the best interest of a minor</b> child if the parents have agreed to an award of joint legal custody and joint physical custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage.
New Hampshire	2015 HB 516 (Failed)	There shall be a <b>rebuttable presumption that equal joint parental rights and responsibilities are in the best interest of the child or children.</b>
	2016 HB 1118 (Failed)	This bill: I. Provides a list of factors the court may consider in determining parental rights and responsibilities, establishes a <b>presumption in favor of shared parental rights</b> , including residential responsibility, permits the court to modify parental rights and responsibilities based on the best interest of the child
	2017 HB 236 (Failed-Adjourned)	This bill: I. Provides a list of factors the court may consider in determining parental rights and responsibilities, ii, establishes a <b>presumption in favor of shared parental rights, including residential responsibility</b> , iii, permits the court to modify parental rights and responsibilities based on the best interest of the child, 17-0407 05/09.
	2019 HB 386 (Failed)	Relates to family law; provides that, unless otherwise agreed, parents shall share weekends and holidays.
New Jersey	2014 SB 113 (Failed)	Provides for a <b>presumption of joint physical custody</b> in a child custody determination, addresses relocation.
	2016/2017 SB 1493 (Failed)	Provides for a <b>presumption of joint physical custody</b> in a child custody determination, addresses relocation.
	2016/2017 SB 3479 (Failed)	Establishes presumption of joint legal and physical custody in child custody matters.
	2018 SB 86 (Pending)	Provides for a presumption of joint physical custody in a child custody determination, addresses relocation.

	2018 SB 273 (Pending)	Establishes presumption of joint legal and physical custody in child custody matters.
	2018 AB 1091 (Pending)	Establishes presumption of joint legal and physical custody in child custody matters.
New Mexico	N.M. Stat. § 40-4-9.1	A. There shall be a <b>presumption that joint custody is in the best interests of a child in an initial custody determination</b> . An award of joint custody does not imply an equal division of financial responsibility for the child. Joint custody shall not be awarded as a substitute for an existing custody arrangement unless there has been a substantial and material change in circumstances since the entry of the prior custody order or decree, which change affects the welfare of the child such that joint custody is presently in the best interests of the child. With respect to any proceeding in which it is proposed that joint custody be terminated, the court shall not terminate joint custody unless there has been a substantial and material change in circumstances affecting the welfare of the child, since entry of the joint custody order, such that joint custody is no longer in the best interests of the child.
	2019 HB 389 (Failed-Adjourned)	Relates to domestic affairs; amends a section of chapter 40, article 4 NMSA 1978 to provide for a presumption of equal time sharing between parents in custody determinations.
	2019 SB 422 (Failed-Adjourned)	Relates to domestic affairs; amends to provide for a presumption of equal time-sharing between parents in custody determinations.
New York	2014 AB 6457 (Failed)	Among other provisions, establishes a <b>presumption of shared parenting of minor children</b> in matrimonial proceedings, requires court to order immediate cessation of child support in cases where paternity is disproven, requires support payer's information to be mailed to him at various intervals, prohibits court from suspending driving privilege's without a hearing those respondents who have been timely in paying his or her support, allows for a year motion by obligor to require accounting by obligee, limits interest on arrears not to exceed 10%, provides sanctions for interference with or withholding of parenting time.
	2014 SB 5316 (Failed)	Establishes the <b>presumption</b> in matrimonial proceedings of awarding <b>shared parenting</b> of minor children.
	2014 SB 949 (Failed)	Establishes the <b>presumption</b> in matrimonial proceedings of awarding <b>shared parenting</b> of minor children.
	2016 AB 5676 (Failed)	"Shared parenting" shall mean an order awarding custody of the child to both parties so that both parties share equally the legal responsibility and control of such child and share equally the living experience in time and physical care to assure frequent and continuing contact with both parties, as the court deems to be in the best interests of the child, taking into consideration the location and circumstances of each party. Shared parenting, where both parents share as equally as possible in the legal responsibility, living experience, and physical care of the child, has been found to be in the child's best interests in certain circumstances.
	2016 SB 2382 (Failed)	There shall be a <b>presumption</b> , affecting the burden of proof, that <b>shared parenting is in the best interests of a minor child</b> unless the parents have agreed to an award of custody to one parent or so agree in open court at a hearing for the purpose of determining custody of a minor child of the marriage or the court finds that shared parenting would be detrimental to a particular child of a specific marriage. "Shared parenting", shall mean an order awarding custody of the child to both parties so that both parties share equally the legal responsibility and control of such child and share

		equally the living experience in time and physical care to assure frequent and continuing contact with both parties, as the court deems to be in the best interests of the child, taking into consideration the location and circumstances of each party.
	2016 SB 2375 (Failed)	There shall be a <b>presumption</b> , affecting the burden of proof, that <b>shared parenting is in the best interests of a minor child</b> unless the parents have agreed to an award of custody to one parent or so agree in open court at a hearing for the purpose of determining custody of a minor child of the marriage or the court finds that shared parenting would be detrimental to a particular child of a specific marriage. "Shared parenting", shall mean an order awarding custody of the child to both parties so that both parties share equally the legal responsibility and control of such child and share equally the living experience in time and physical care to assure frequent and continuing contact with both parties, as the court deems to be in the best interests of the child, taking into consideration the location and circumstances of each party.
	2017 SB 2267 (Failed-Adjourned)	Establishes the <b>presumption</b> in matrimonial proceedings for awarding <b>shared parenting</b> of minor children in the absence of an allegation that shared parenting would be detrimental to the best interests of the child, establishes an order of preference in awarding custody, defines shared parenting and parenting plan.
	2017 SB 2577 (Failed-Adjourned)	Establishes a <b>presumption of shared parenting</b> of minor children in matrimonial and family court proceedings.
	2017 AB 6054 (Failed-Adjourned)	Makes numerous modifications to provisions of various Laws relating to child custody matters, provides for shared parenting custody, provides for parenting time rather than visitation, provides for mediation and counseling in matrimonial actions involving children, establishes sanctions for interference with parenting time, provides for equality in the burden of child support between parents, bases child support on net income exclusive of income and FICA taxes, provides that child support ceases at age 18.
	2019 SB 2916 (Pending)	Establishes a presumption of shared parenting of minor children in matrimonial and family court proceedings.
	2019 AB 6608 (Pending)	Makes numerous modifications to provisions of various laws relating to child custody matters; provides for shared parenting custody; provides for parenting time rather than visitation; provides for mediation and counseling in matrimonial actions involving children; establishes sanctions for interference with parenting time; provides for equality in the burden of child support between parents; bases child support on net income exclusive of income and FICA taxes.
	2019 SB 4260 (Pending)	Establishes the presumption in matrimonial proceedings for awarding shared parenting of minor children in the absence of an allegation that shared parenting would be detrimental to the best interests of the child; establishes an order of preference in awarding custody; defines shared parenting and parenting plan.
North Carolina	2014 SB 610 (Failed)	Incorporates a <b>presumption of a shared parenting</b> standard
	2014 HB 590 (Failed)	States there is a <b>rebuttable presumption that shared parenting</b> is in the best interest of the child.
	2014 NC HB 534 (Failed)	States there is a <b>rebuttable presumption that shared parenting</b> is in the best interest of the child.

	2015 SB 711 (Failed)	Amends the laws pertaining to child custody to incorporate a <b>presumption of shared parenting standard</b> .
	2015 SB 519 (Enacted)	Encourage both parents to share equitably in the rights and responsibilities of raising their child, even after dissolution of marriage or unwed relationship.
	2017 SB 645 (Failed)	it is the policy of the State to encourage active and ongoing participation of both parents in the child's life and time with both parents when it is in the child's best interest, regardless of the parents' present or past marital status, subject to laws regarding abuse, neglect, and dependency. Joint physical and legal custody to the parents and the opportunity to submit a jointly agreed upon parenting plan In determining the terms of custody and upon the request of either parent, the court shall consider a minimum of forty percent (40%) time annually with each parent unless the arrangement would not be in the best interest of the child, would risk the safety of the child or other party, including risk associated with acts of domestic violence, or any other findings the court deems applicable. The inability of the parents to cooperate with each other in parenting the child shall not be a factor that weighs against the best interests of the child in having minimum visitation time with both parents.
North Dakota	2017 HB 1392 (Failed)	Relates to a <b>presumption of equal parenting</b> time and responsibility; provides for a legislative management study
	2019 HB 1496 (Failed)	Relates to shared parenting time and responsibility.
Oklahoma	Okla. Stat. tit. 43, § 112	C. 2. There shall be neither a legal preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody.
	2019 HB 1276 (Pending)	Relates to marriage; relate to child custody; requires court to comply with specified law in determining custody; requires equally shared parenting time if requested by a parent; provides exception for best interests of the child; directs maximization of time with each parent if deviation is warranted; provides an effective date.
Oregon	2017 SB 550 (Failed)	Creates rebuttable presumption that equal parenting time is in best interests of child, requires rebuttal of presumption by clear and convincing evidence.
	2019 SB 318 (Pending)	Creates rebuttable presumption that equal parenting time is in best interests of child; requires rebuttal of presumption by clear and convincing evidence
Puerto Rico	2012 SB 63 (Enacted)	Creates the Protection of the Rights of Children in the award of custody, protects and ensures the welfare of children who are offspring of a divorced couple or consensual relationship, ensuring the best possible mental health for children, establishes public policy as shared custody and responsibility in cases of dissolution of marriage or a relationship where there are children involved, establishes a <b>rebuttable presumption</b> , establishes criteria to be considered in awarding custody to the courts.
South Carolina	2012 HB 4614 (Enacted)	Specifies certain procedures and requirements for court-ordered child custody, including joint custody and sole custody, requires parents to jointly prepare and submit a parenting plan, which the court must consider before issuing temporary and final custody orders, requires the court to make final custody determinations in the best interest of the child based upon the evidence presented, provides for arbitration.
	2014 SB 905 (Failed)	Allows for consideration of a child's preference in a custody order. Allows that, in determining the best interests of the child, the court must consider

		the child's reasonable preference for parenting time. Defines shared custody, relates to court-ordered custody, provides that in a shared custody order, there shall be a <b>presumption</b> that, absent proof of abuse or neglect, or an agreement to the contrary, the parents shall have shared legal custody.
	2016 SB 151 (Failed)	For a shared custody order, there shall be a <b>presumption</b> that, absent proof of abuse or neglect of the child, or an agreement to the contrary, the parents shall have shared legal decision-making authority and the parents shall share approximately equally in the parenting time of the child.
	2017 HB 3126 (Failed-Adjourned)	Relates to parenting plans, creates a presumption that it is in the best interest of the child to spend approximately an equal amount of time with each parent, with exceptions, relates to child custody orders, requires the court to take into consideration certain factors when determining what is in the best interest of a child, requires that a child custody order include findings of fact if the time-sharing schedule does not allocate approximately equal parenting time to each parent.
	2019 HB 3295 (Pending)	Creates a rebuttable presumption that joint custody and equally shared parenting time are in the best interest of the child, with exceptions, at all stages of the custody determination process, relates to parenting plans, final custody determinations, and custody orders respectively, makes conforming changes.
South Dakota	S.D. Codified Laws § 25-4A-26	Nothing in §§ 25-4A-21 to 25-4A-27, inclusive, creates a presumption of joint physical custody. The court shall determine the appropriate physical care, custody, and control of a minor child based on a determination of the best interests of the child.
	2012 HB 1055 (Enacted)	Relates to joint physical custody orders, provides that if the court awards joint legal custody, it may also order joint physical custody in such proportions as are in the best interests of the child, notwithstanding the objection of either parent.
	2017 HB 1203 (Failed)	Revises certain provisions regarding the consideration of joint physical custody of a minor.
	2017 SB 72 (Failed)	Revises certain provisions regarding the consideration of joint physical custody of a minor.
	2018 SB 167 (Enacted)	Revises certain provisions regarding the consideration of joint physical custody of a minor.
	2018 SB 140 (Enacted)	25-4A-13. If either party objects to the initial custody arrangement in Section 25-4A-11 or the standard guidelines, the court shall order a hearing which shall be held not later than thirty days after the date of the objection. <u>In making an order for temporary custody, the order for custody shall reflect the degree of each parent's demonstrated participation in the child's life.</u> The court shall issue its <u>a temporary custody and visitation order after considering the best interests of the child consistent with the provisions of Section 25-4-45. If the order for temporary custody results in less than a substantially equal parenting time, the court shall construct a parenting time schedule that maximizes the time each parent has with the child and is consistent with ensuring the child's welfare. Each temporary custody order shall include specific findings of fact and conclusions of law, except if the court confirms the agreement of the parties.</u>
	2019 HB 1104 (Failed-Adjourned)	Revises certain provisions regarding the consideration of joint physical custody of a minor.
Tennessee	Tenn. Code § 36-6-101	(2)(A)(i) Except as provided in this subdivision (a)(2)(A), neither a preference nor a presumption for or against joint legal custody, joint



		physical custody or sole custody is established, but the court shall have the widest discretion to order a custody arrangement that is in the best interest of the child. Unless the court finds by clear and convincing evidence to the contrary, there is a presumption that joint custody is in the best interest of a minor child where the parents have agreed to joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child. For the purpose of assisting the court in making a determination whether an award of joint custody is appropriate, the court may direct that an investigation be conducted. The burden of proof necessary to modify an order of joint custody at a subsequent proceeding shall be by a preponderance of the evidence.
	2019 SB 448 (Failed)	Establishes a preference and rebuttable presumption for joint custody or shared parenting but gives the court wide discretion to order a custody arrangement in the Childs best interest; requires the court to include findings of fact and conclusions of law to the contrary in any custody order that does not include joint custody.
	2019 HB 169 (Pending)	Permits a designation as joint primary residential parents or a waiver of the primary residential parent designation upon agreement of the parents when the child is scheduled to reside an equal amount of time with both parents; allows the address of either parent to be used to determine school zoning when the child is scheduled to reside an equal amount of time with both parents.
	2019 SB 402 (Enacted)	Relates to Child Custody and Support; permits a designation as joint primary residential parents or a waiver of the primary residential parent designation upon agreement of the parents when the child is scheduled to reside an equal amount of time with both parents; allows the address of either parent to be used to determine school zoning when the child is scheduled to reside an equal amount of time with both parents.
Texas	2015 HB 2363 (Failed)	Allows for equal parenting orders in suits affecting the parent-child relationship.
	2017 HB 453 (Failed)	Relates to equal parenting orders in suits affecting the parent-child relationship.
	2019 HB 2157 (Pending)	Relates to equal parenting orders in suits affecting the parent child relationship.
	2019 SB 2203 (Pending)	Relates to equal parenting orders in suits affecting the parent child relationship.
Utah	Utah Code § 30-3-10  2012 HB 107 (Enacted)	(1) If a husband and wife having minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate. (b) There <b>shall be a rebuttable presumption that joint legal custody, as defined</b> 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. (c) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9. A

		<p>presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.</p> <p>(5) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.</p>
	2015 HB 35 (Enacted)	Creates an optional parent-time schedule of specified overnights, sets holiday schedules, provides for specific elections by the noncustodial parent.
	2018 HB 427 (Failed)	rewrites and consolidates some provisions regarding custody; addresses custody of children and factors the court shall consider; addresses joint legal custody, joint physical custody, and factors the court shall consider in making a determination; addresses parent-time; and makes technical and conforming changes.
	2018 HB 438 (Failed)	Addresses joint custody considerations
Vermont	Vt. Stat. tit. 15, § 666	(a) Any agreement between the parents which divides or shares parental rights and responsibilities shall be presumed to be in the best interests of the child.
	2014 HB 323 (Failed)	Creates a <b>rebuttable presumption that shared parental rights</b> and responsibilities are in the best interests of the child.
	2016 HB 163 (Failed)	There shall be a <b>rebuttable presumption that shared parental rights</b> and responsibilities are in the best interests of the child.
	2016 HB 220 (Failed)	To the extent that it is reasonable and in the best interests of the child, the Court shall order <b>shared parental rights and responsibilities</b> and <b>equal parent-child contact</b> , unless physical harm or significant emotional harm to the child, other children, or either parent is likely to result.
	2017 HB 166 (Failed-Adjourned)	Relates to shared parental rights and responsibilities and equal parent child contact.
	2018 HB 634 (Failed-Adjourned)	Relates to shared parental rights and responsibilities and equal parent child contact.
Virginia	2018 HB 1351 (Enacted)	Revises provisions relating to joint legal or physical child custody; provides that 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.
	2018/2019 HB 2074 (Pending)	Relates to custody and visitation arrangements, relates to presumption of equal time, provides that there shall be a presumption that both parents be awarded equal time with a child subject to a custody and visitation order to the greatest extent practicable, the bill further provides that there shall be a presumption that both parents shall share equally in the responsibilities of raising their children.
	2018/2019 HB 2127 (Failed)	Relates to best interests of a child; relates to maximizing amount of time minor children spend with each parent; provides that, in considering the best interests of a child for the purposes of determining custody or visitation arrangements, the court shall assure minor children of frequent and continuing contact with both parents so as to maximize the time minor children spend with each parent, when appropriate.
Washington	2016 HB 1110 (Failed)	There is a <b>presumption</b> that it is in the best interests of the child to establish a shared residential schedule that provides each parent with substantially equal time and contact with the child.

	2017 HB 1554 (Failed-Adjourned)	There is a <u>presumption that it is in the best interest of the child to establish an equal residential schedule that provides each parent with equal time and contact with the child unless:</u>
West Virginia	2016 HB 4601 (Failed)	Provides that the court allocate time equally between parents, unless equal custody is not consistent with the best interest of the child.
	2016 HB 4252 (Failed)	Requires that unless otherwise agreed to, or unless inconsistent with the best interests of the child, the court to enter an order providing each parent with equal periods of custodial time.
	2017 SB 189 (Failed)	Establishes that shared legal and physical custody of child in divorce cases is in best interest of child.
	2017 HCR 102 (Failed)	Study of imposing a presumption in West Virginia Family Courts that 50/50 shared parenting be awarded in child custody cases.
	2017 HB 2658 (Failed)	Establishes that <b>shared legal and physical custody</b> of a child in cases of divorce is <b>presumed to be in the best interests of the child</b> .
	2017 HB 2703 (Failed)	Provides that the court allocate time equally between parents.
	2018 HB 4155 (Failed-Adjourned)	Establishes that shared legal and physical custody of a child in cases of divorce is presumed to be in the best interests of the child.
	2018 HB 2703 (Failed-Adjourned)	Provides that the court allocate time equally between parents.
	2019 HB 2046 (Failed-Adjourned)	<b>Establishes that shared legal and physical custody of a child in cases of divorce is presumed to be in the best interests of the child.</b>
	2019 SB 474 (Failed-Adjourned)	Establishes shared legal and physical custody of child in divorce cases.
Wisconsin	Wis. Stat. § 767.41	<b>(2) Custody to party; joint or sole.</b> (a) Subject to pars. (am) to (e), based on the best interest of the child and after considering the factors under sub. (5)(am), subject to sub. (5)(bm), the court may give joint legal custody or sole legal custody of a minor child. (am) Except as provided in par. (d), the court shall presume that joint legal custody is in the best interest of the child.
	2018 AB 849 (Failed)	Revises provisions relating to child custody and placement, relates to a presumption that equalizing physical placement to the highest degree is in the child's best interest.
Wyoming	2015 HB 137 (Failed)	The <b>court shall enter an order of joint legal or shared custody</b> unless there is a preponderance of the evidence that: (i) A sole or primary custody arrangement is in the best interests of the children; or (ii) The parties no longer reside within fifty (50) miles of each other and sole custody is the only practical arrangement.
	2017 HB 260 (Failed)	Relates to child custody and visitation, provides a <b>presumption for issuance of an order of shared custody as specified</b> , includes tax refunds in the definition of income for determination of child support, amends the calculation for presumptive child support as specified, amends imputed income of a voluntary unemployed or underemployed parent as specified, provides definitions, provides for an effective date.
	2018 SB 20 (Enacted)	provides that no form of custody may be favored or disfavored, including joint custody; specifies applicability.
	2019 HB 114 (Failed-Adjourned)	Relates to child custody, provides a presumption for issuance of an order of shared custody as specified, provides definitions, specifies applicability, provides for an effective date.

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