



"Shared Parenting" Legislation

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Prepared By Britt Olwine, Legal Section Chief
Division of Legislative Services

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, and efforts made since the passage of HB 1351. 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."¹ 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.²

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.³ While the father still held the paramount right to custody, the absolute right to custody found in *Latham* was no longer an unconditional right.⁴

¹ *Latham v. Latham*, 71 Va. (30 Gratt.) 307, 331 (1787).

² *Id.* at 337.

³ VA. CODE § 2610 (1887).

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

Virginia Code § 31-15, later amended and since repealed,⁵ was then enacted.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 emerged, found to be the "natural custodian of her child of tender years."⁶ While acknowledging that an emphasis should be placed upon the child's welfare,⁷ 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.⁸

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.⁹ 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 Supreme 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

⁵ 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 SB 88.

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

⁷ "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.

⁸ "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 unfailingly." *Id.* at 270-271, 49 S.E. 2d at 354.

⁹ 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.¹⁰ The 1994 enactment of § 20-124.2¹¹ 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 (Forbes, 1996)/SB 496 (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 (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 (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 (Bell, R., 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 (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 (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

¹⁰ *Visikides v. Derr*, 3 Va. App. 69, 72 (1986).

¹¹ SB 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"¹² 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.¹³ Because determining what is in the best interests of the child requires a fact-intensive, comprehensive inquiry¹⁴ 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.

Passage of HB 1351 (Davis, 2018)

A statutory change was made to subsection B of § 20-124.2 pursuant to Delegate Glenn R. 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.~~

¹² 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.

¹³ 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.

¹⁴ 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,¹⁵ 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.

Legislative Efforts Subsequent to the Passage of HB 1351

More shared parenting legislative efforts were made during the 2019 Session pursuant to HB 2074 (Bell, J.) and HB 2127 (Davis). Familiar arguments were again made both in favor 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 tabled in House Committee for Courts of Justice Subcommittee 2.

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 the House Committee for Courts of Justice Subcommittee 2 and Senate Committee for Courts of Justice but ultimately failed to pass the Senate.

Bills nearly identical to HBs 2074 and 2127 subsequently were introduced in the 2020¹⁶, 2021¹⁷, 2022¹⁸, 2023¹⁹, and 2025²⁰ Sessions; all of these bills failed to pass the General Assembly.

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 has tracked various forms of shared parenting legislation across the country. 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.

¹⁵ 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 the House Committee for Courts of Justice, again in the Senate Committee for 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>.

¹⁶ HB 350 (Davis) and HB 485 (Davis).

¹⁷ HB 2041 (Davis).

¹⁸ HB 69 (Davis).

¹⁹ HB 1493 (Davis).

²⁰ HB 890 (Earley).



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, and the failure of subsequent bills aimed at making further changes to this area of law, it is difficult to predict how much appetite there will be for further legislative changes in this area in upcoming sessions.

For more information, contact the Division of Legislative Services staff:

Britt Olwine, Legal Section Chief, DLS
bolwine@dls.virginia.gov
804-698-1815



Research Summary

50 State Scan of Joint Custody Laws

For additional information please contact Eric Mayo, Senior Policy Specialist, Children and Families Program, eric.mayo@ncsl.org

50 STATE SURVEY OF JOINT CUSTODY

State	Relevant Statutes
Alabama	Ala. Code § 30-3- 152 (c) If both parents request joint custody, the presumption is that joint custody is in the best interest of the child. 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.
	AL HB 19 (2026, Failed): Relates to child custody; relates to rebuttable presumption of joint physical custody and substantial parenting time created, final order of the court further provided for.
	AL HB 147 (2026, Failed): Relates to Child custody; provides presumption of joint custody, definitions relating to joint custody further provided for, joint custody model parenting plan required in certain divorce cases, penalties for certain unsupported motions provided.
	AL HB 53 (2025, Failed): Rebuttable Presumption of Joint Custody Relates to child custody; amends Sections 30-3-150, 30-3-151, 30-3-152, and 30-3-153; creates a rebuttable presumption of joint custody, except in cases of domestic or family violence.
	AL HB 229 (2025, Failed): Concerns child custody; provides for rebuttable presumption of joint custody; provides for definition of joint physical custody; requires a joint custody model parenting plan in certain divorce cases; provides for motion for temporary relief as alternative to joint custody plan in certain circumstances; provides for penalties for certain unsupported motions
Alaska	Alaska Stat. § 25.20.060 (b) – (c) (b) Neither parent, regardless of the question of the child’s legitimacy, is entitled to preference in the awarding of custody.

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State	Relevant Statutes
	(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.
Arkansas	Ark. Code § 9-13- 101 (a) (1) (A) (iv) (a) – (c) (a) In an action concerning an original child custody determination in a divorce or paternity matter, there is a rebuttable presumption that joint custody is in the best interest of the child. (b) The presumption that joint custody is in the best interest of the child may be rebutted: (1) If the court finds by clear and convincing evidence that joint custody is not in the best interest of the child; (2) If the parties have reached an agreement on all issues related to custody of the child; (3) If one (1) of the parties does not request sole, primary, or joint custody; or (4) If a rebuttable presumption described in subsection (c) or subsection (d) of this section is established by the evidence. (c) The circuit court may enter an order to reduce areas of conflict in a manner determined appropriate by the court.
California	Cal. Fam. Code §§ 3040(e) This section establishes neither a preference nor a presumption for or against joint legal custody, joint physical custody, or sole 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, consistent with this section. 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.
Connecticut	Conn. Gen. Stat. § 46b-56a (b) There shall be a 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 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. CT SB 1026 (2025, Failed): Concerns the presumption of joint custody and equal shared parenting time in matters involving the care and custody of a minor child; creates

State	Relevant Statutes
	a rebuttable presumption of joint custody and equal shared parenting time in matters involving the care and custody of a minor child.
District of Columbia	D.C. Code § 16-914(a)(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. There shall be a rebuttable presumption that joint custody is in the best interest of the child or children, except 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; § 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; § 4-1341.01), or where parental kidnapping as defined in 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; § 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; § 4-1341.01), or where parental kidnapping as defined in section 16-1021 through section 16-1026 has occurred.
Florida	Fla. Stat. § 61.13(2)(c) (1) – (3) 1. It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. Unless otherwise provided in this section or agreed to by the parties, there is a rebuttable presumption that equal time-sharing of a minor child is in the best interests of the minor child. To rebut this presumption, a party must prove by a preponderance of the evidence that equal time-sharing is not in the best interests of the minor child. Except when a time-sharing schedule is agreed to by the parties and approved by the court, the court must evaluate all of the factors set forth in subsection (3) and make specific written findings of fact when creating or modifying a time-sharing schedule. 2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. In determining detriment to the child, the court shall consider: a. Evidence of domestic violence, as defined in s. 741.28; b. Whether either parent has or has had reasonable cause to believe that he or she or his or her minor child or children are or have been in imminent danger of becoming victims of an act of domestic violence as defined in s. 741.28 or sexual violence as

State	Relevant Statutes
	defined in s. 784.046(1)(c) by the other parent against the parent or against the child or children whom the parents share in common regardless of whether a cause of action has been brought or is currently pending in the court; c. Whether either parent has or has had reasonable cause to believe that his or her minor child or children are or have been in imminent danger of becoming victims of an act of abuse , abandonment , or neglect, as those terms are defined in s. 39.01, by the other parent against the child or children whom the parents share in common regardless of whether a cause of action has been brought or is currently pending in the court; and d. Any other relevant factors. 3. The following evidence creates a rebuttable presumption that shared parental responsibility is detrimental to the child: a. A parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775; b. A parent meets the criteria of s. 39.806(1)(d); or c. A parent has been convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and at the time of the offense: (I) The parent was 18 years of age or older. (II) The victim was under 18 years of age or the parent believed the victim to be under 18 years of age. If the presumption is not rebutted after the convicted parent is advised by the court that the presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.
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. There shall be no presumption in favor of any particular form of custody, legal or physical, nor in favor of either parent. 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. GA HB 1041 (2026, Failed): Relates to general provisions relative to the juvenile code; provides for the expedition of child custody and visitation modification hearings in certain circumstances; provides for legislative findings; provides for a definition; provides for notice; amends Title 19 of the Official Code of Georgia Annotated; relates to domestic relations; provides that denial of a

State	Relevant Statutes
	court ordered visitation or parenting time may result in modification of custody or parenting time GA HB 1431 (2026, Failed): Relates to establishment and review of child custody and visitation, so as to provide for a presumption of joint physical custody in divorce proceedings; provides for exceptions; provides for related matters; provides conflicting laws. GA SB 404 (2026, Failed): Relates to general provisions relative to child custody proceedings, so as to provide for joint legal and physical custody as the default child custody arrangement; provides for the presumption that joint legal and physical custody is in the best interests of the child; provides for an exception; provides for related matters; repeals conflicting laws.
Idaho	Idaho Code § 32- 717B (4) Except as provided in subsection (5), of this section, absent a preponderance of the evidence to the contrary, there shall be a presumption that joint custody is in the best interests of a minor child or children. ID SB 1395 (2026, Failed): Amends and adds to revise provisions regarding State child custody laws
Iowa	Iowa Code § 598.41 (2) (a) – (c) a. On the application of either parent, the court shall consider granting joint custody in cases where the parents do not agree to joint custody. b. If the court does not grant joint custody under this subsection, the court shall cite 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. c. A finding by the court that a history of domestic abuse exists, as specified in subsection 3, paragraph “j”, which is not rebutted, shall outweigh consideration of any other factor specified in subsection 3 in the determination of the awarding of custody under this subsection.
Kansas	Kan. Stat. § 23-3206 (b) Sole legal custody. The court may order the sole legal custody of a child with one of the parties when the court finds that it is not in the best interests of the child that both of the parties have equal rights to make decisions pertaining to the child. If the court does not order joint legal custody, the court shall include on the record specific findings of fact upon which the order for sole legal custody is based. The award of sole legal custody to one parent shall not deprive the other parent of access to information regarding the child unless the court shall so order, stating the reasons for that determination.

State	Relevant Statutes
	KS HB 2356 (2023, Failed): Relates to creating a presumption that joint legal custody and maximized parenting time in temporary parenting plans are in the best interests of a child and defining related terms under the Kansas Family Law Code.
Kentucky	Ky. Rev. Stat. § 403.270 (2) The court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent and to any de facto custodian. Subject to KRS 403.315, there shall be a presumption, rebuttable by a preponderance of evidence, that joint custody and equally shared parenting time is in the best interests of the child. If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian has with the child and is consistent with ensuring the child’s welfare. Ky. Rev. Stat. § 403.340 (5) Subject to KRS 403.315, if the court orders a modification of a child custody decree, there shall be a presumption, rebuttable by a preponderance of evidence, that it is in the best interest of the child for the parents to have joint custody and share equally in parenting time. If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian has with the child and is consistent with ensuring the child’s welfare. KY HB 460 (2026, Failed): Removes the presumption in favor of joint custody and equal parenting time KY HB 597 (2025, Failed): Removes the presumption in favor of joint custody and equal parenting time KY HB 705 (2025, Failed); Requires the court of justice to create protocols to allow law enforcement officers to assist victims in filing a petition for an order of protection; expands the definition of domestic violence and abuse; expands the definition of dating violence and abuse; removes the presumption in favor of joint custody and equal parenting time; provides definitions and establishes procedures for courts to dismiss civil actions that are determined to be harassing and malicious;
Louisiana	LA HB 473 (2026, Failed): Provides relative to custody and child support
Maine	19-A Me. Rev. Stat. § 1653 (2) (A) When the parents have agreed to an award of shared parental rights and responsibilities or so agree in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents.

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State	Relevant Statutes
Maryland	MD HB 1505 (2025, Failed): Establishes a rebuttable presumption in certain child custody proceedings that joint legal custody and joint physical custody for approximately equal periods of time are in the best interests of a child and establishing factors a court may consider when determining the best interests of the child; authorizes the court to award sole custody based on a preponderance of the evidence that a joint custody arrangement is not in the best interests of the child.
	MD SB 521 (2025, Failed): Establishes a rebuttable presumption in certain child custody proceedings that joint legal custody and joint physical custody for approximately equal periods of time are in the best interests of a child and establishing factors a court may consider when determining the best interests of the child; authorizes the court to award sole custody based on a preponderance of the evidence that a joint custody arrangement is not in the best interests of the child; requires the court to enter certain factors.
	MD SB 663 (2024, Failed): Establishes a rebuttable presumption in certain child custody proceedings that joint legal custody and joint physical custody for approximately equal periods of time are in the best interests of a child and establishing factors a court may consider when determining the best interests of the child; authorizes the court to award sole custody based on a preponderance of the evidence that a joint custody arrangement is not in the best interests of the child.
Massachusetts	Mass. Ann. Laws ch. 208, § 31 Upon the filing of an action in accordance with the provisions of this section, section twenty-eight of this chapter, or section thirty-two of chapter two hundred and nine and until a judgment on the merits is rendered, absent emergency conditions, abuse or neglect, the parents shall have temporary shared legal custody of any minor child of the marriage; provided, however, that the judge may enter an order for temporary sole legal custody for one parent if written findings are made that such shared custody would not be in the best interest of the child. Nothing herein shall be construed to create any presumption of temporary shared physical custody.
Michigan	Mich. Comp. Laws. § 722.26a (2) If the parents agree on joint custody, the court shall award joint custody unless the court determines on the record, based upon clear and convincing evidence, that joint custody is not in the best interests of the child.
	MI HB 6261 (2024, Failed): Provides for parenting plan for joint physical custody
Minnesota	Minn. Stat. § 518.17(1)(b)(7)–(9) (7) There is no presumption for or against joint physical custody, except as provided in clause (9). (8) Joint physical custody does not require an absolutely equal division of time.

State	Relevant Statutes
	(9) The court shall use a rebuttable presumption that upon request of either or both parties, joint legal 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). MN HB 3840 / MN SB 4343 (2026, Failed): Relates to family law; modifies custody and parenting time presumptions MN SB 5298 (2026, Failed): Establishes presumptions regarding joint custody arrangements and minimum parenting time allocations
Mississippi	Miss. Code § 93-5- 24 (2) (a) (i) There shall be a rebuttable presumption that joint custody and equally shared parenting time is in the best interest of the child. If the court grants joint custody and equally shared parenting time, the court shall construct a parenting time schedule which maximizes the time each parent has with the child and ensures the best interest of the child is met. (ii) The presumption created in subparagraph (i) of this paragraph shall be rebuttable by a preponderance of the evidence. A court that does not award joint custody with equally shared parenting time shall document the reasons for deviating from the presumption. MS HB 1662 (2026, Enacted): Creates a rebuttable presumption in favor of joint custody with equal parenting time in all custody matters; provides that the presumption shall be rebuttable by a preponderance of the evidence; provides for the calculation of child support where the court awards joint custody with equally shared parenting time; requires a court to document the reasons from deviating from the presumption unless both parents petition for a deviation. MS SB 2484 (2025, Failed): Creates a rebuttable presumption in favor of joint custody with equal parenting time in all custody matters; provides that the presumption shall be rebuttable by a preponderance of the evidence; requires a court to document the reasons from deviating from the presumption. MS HB 783 (2024, Failed): Revises custody standards to provide a rebuttable presumption of joint custody with equal parenting time in all custody matters; requires a court to document reasons for deviation from joint custody if the court fails to grant joint custody; provides additional remedies provided by chancery court, for purposes of amendment.

State	Relevant Statutes
	MS HB 1292 (2024, Failed): Creates a rebuttable presumption in divorce proceedings that equal joint custody is in the best interest of a child; requires courts to consider certain factors in determining if the presumption for equal joint custody has been rebutted; declares that the creation of the presumption for equal joint custody has no effect on custody orders entered before specified date. MS SB 2527 (2024, Failed): Creates a rebuttable presumption in favor of joint custody with equal parenting time in all custody matters; provides that the presumption shall be rebuttable by a preponderance of the evidence; requires a court to document the reasons from deviating from the presumption.
Missouri	Mo. Rev. Stat. § 452.375 (2) The court shall determine custody in accordance with the best interests of the child. 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. The presumption may be rebutted if the court finds that the parents have reached an agreement on all issues related to custody, or if the court finds that a pattern of domestic violence has occurred as set out in subdivision (6) of this subsection. When the parties have not reached an agreement on all issues related to custody, the court shall consider all relevant factors and enter written findings of fact and conclusions of law, including, but not limited to, the following: [...]
Nevada	Nev. Rev. Stat. § 125C.002 (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.
New Hampshire	N.H. Rev. Stat. § 461-A:5 Except as provided in paragraph III, in the making of any order relative to decision-making responsibility, there shall be a presumption, affecting the burden of proof, that joint decision-making responsibility is in the best interest of minor children: I. Where the parents have agreed to an award of joint decision-making responsibility or so agree in open court at a hearing for the purpose of determining parental rights and

State	Relevant Statutes
	responsibilities for the minor children of the marriage. If the court declines to enter an order awarding joint decision-making responsibility, the court shall state in its decision the reasons for the denial. II. Upon the application of either parent for joint decision-making responsibility, in which case it may be awarded at the discretion of the court. For the purpose of assisting the court in making a determination whether an award of joint decision-making responsibility is appropriate under this section, the court may appoint a guardian ad litem to represent the interests of the children according to the provisions of RSA 461-A:16. If the court declines to enter an order awarding joint decision-making responsibility, the court shall state in its decision the reasons for the denial. III. Where the court finds that abuse as defined in RSA 173-B:1, I has occurred, the court shall consider such abuse as harmful to children and as evidence in determining whether joint decision-making responsibility is appropriate. In such cases, the court shall make orders for the allocation of parental rights and responsibilities that best protect the children or the abused spouse or both. If joint decision-making responsibility is granted despite evidence of abuse, the court shall provide written findings to support the order.
New Jersey	NJ AB 2963 / NJ SB 2008 (2026, Pending): Establishes presumption of joint legal and physical custody in child custody matters
	NJ AB 2521 / NJ SB 163 (2024, Failed): 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 presumption that joint custody is in the best interests of a child in an initial custody determination. 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.
New York	NY AB 6151 (2025, Pending): Establishes procedures for temporary custody orders that include a fifty-fifty rebuttable presumption that the parents shall have temporary joint legal and shared physical custody and shall share equal parenting time
	NY SB 4128 (2025, Pending): Establishes the presumption in matrimonial proceedings for awarding shared parenting of minor children in the absence of an allegation that shared

State	Relevant Statutes
	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.
	NY AB 4977/ NY SB 4797 (2023, Failed): Establishes procedures for temporary custody orders that include a fifty-fifty rebuttable presumption that the parents shall have temporary joint legal and shared physical custody and shall share equal parenting time.
North Carolina	NC SB 162 (2025, Pending): Establishes a presumption of joint custody and shared parenting.
	NC HB 735 / NC SB 576 (2023, Failed): Establishes a presumption of joint custody and shared parenting.
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.
	OK SB 1452 (2026, Failed): Relates to child custody; creates a rebuttable presumption of joint child custody; provides an effective date.
	OK SB 1580 (2026, Failed): Relates to child custody; relates to care and custody of children; creates a rebuttable presumption of joint child custody; creates a rebuttable presumption of sole custody in certain circumstances; updates statutory language.
	OK SB 1708 (2026, Failed): Relates to child custody; relates to care and custody of children; creates a rebuttable presumption of joint child custody; creates a rebuttable presumption of sole custody if a parent is subject to certain registrations.
	OK HB 1082 (2025, Failed): Relates to marriage and family; relates to awarding child custody; modifies factors to consider for child custody; modifies determinations for terminating custody agreements; provides an effective date.
	OK HB 3582 (2025, Failed): Relates to marriage and family; enacts the Equal Parenting Act; relates to awarding child custody; modifies factors to consider for child custody; modifies determinations for terminating custody agreements; provides for noncodification; provides an effective date
	OK HB 3088 (2024, Failed): Relates to child custody; defines terms; provides factors for determining parenting time; provides for temporary custody agreements; provides for dismissal of custody hearings; provides for visitation rights; provides for alleged domestic abuse exceptions; provides for if a parent is in the armed forces; provides for noncustodial parental visitation rights; provides for motions to modify court orders; provides for enforcement of the Uniform Child Custody Jurisdiction Act

State	Relevant Statutes
Pennsylvania	PA HB 1499 (2025, Pending): Amends Title 23 Domestic Relations of the State Consolidated Statutes, in child custody; provides for definitions, for award of custody, for standing for partial physical custody and supervised physical custody, for presumption in cases concerning primary physical custody, for factors to consider when awarding custody, for consideration of criminal conviction and for parenting plan; makes editorial changes
	PA HB 1684 (2023, Failed): Amends Title 23 Domestic Relations of the Pennsylvania Consolidated Statutes, in child custody; provides for definitions, for award of custody, for standing for partial physical custody and supervised physical custody, for presumption in cases concerning primary physical custody, for factors to consider when awarding custody, for consideration of criminal conviction and for parenting plan; makes editorial change
Rhode Island	RI HB 7821 (2026, Pending): Creates the rebuttable presumption that joint legal custody and shared physical placement is in the best interest of the child; creates a mechanism for the family court to use in constructing a parenting plan should the court deviate from equal parenting time; takes effect upon passage
South Carolina	SC HB 4622 (2026, Pending): Relates to Guardians ad litem appointed in Private Family Court actions; provides certain protections against guardian ad litem bias or other misconduct; clarifies that equal parenting time for both parents is presumed to be in a child's best interest; addresses the apportionment of fees and costs; relates to child custody hearings upon amending specified sections; provides that equal parenting time is presumed to be in a child's best interest in child custody actions
	SC HB 5200 (2026, Pending): Establishes that joint physical custody is presumed to be in the best interest of a minor child, with exceptions; defines joint physical custody; requires for other purposes
	SC SB 901 (2026, Pending): Enacts the equal parenting act; specifies that by amending specified section, all relates to guardians ad litem appointed in private Family Court actions; provides certain protections against Guardian Ad Litem bias or other misconduct; clarifies that equal parenting time for both parents is presumed to be in a child's best interest; addresses the apportionment of fees and costs; specifies that by amending specified sections, all relates to child custody hearings
	SC HB 4540 (2025, Pending): Relates to child custody and parenting time; clarifies that only sole custody or joint custody may be awarded by the Family Court, there is no presumption for or against either type of custody or every child custody order must address parenting time; relates to other purposes
	SC HB 5113 (2024, Failed): Relates to joint custody orders; clarifies that there is no requirement for exceptional circumstances to award joint custody in a child custody proceeding.

State	Relevant Statutes
	SC SB 540 (2023, Failed): Provides mandatory imprisonment for a party to a proceeding in family court who commits perjury; by amending relates to parenting plans; provides a presumption, rebuttable by a preponderance of the evidence, that joint custody is in the best interest of the child where custody is contested.
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.
	SD SB 224 / SD HB 1067 (2026, Failed): Provides a rebuttable presumption in favor of joint physical custody of a minor child
	SD SB 172 (2025, Failed): Provides a rebuttable presumption in favor of joint physical custody of a minor child.
	SD SB 214 (2024, Failed): Addresses determinations regarding physical custody of a minor child.
Tennessee	Tenn. Code § 36-6-101(a) (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 both parents have agreed to a custody arrangement and parenting plan, orders for custody arrangements must include written findings of fact and conclusions of law to support the basis for the order. 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.
	TN HB 1804 / TN SB 1690 (2024, Failed): Establishes a presumption, rebuttable by a preponderance of the evidence, that joint legal custody and equally shared parenting time is in the best interest of the child; removes the presumption under certain circumstances.
	TN HB 620 / TN SB 1058 (2023, Failed): Establishes a presumption, rebuttable by a preponderance of the evidence, that joint legal custody and equally shared parenting time is in the best interest of the child; removes the presumption under certain circumstances.

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State	Relevant Statutes
Texas	Tex. Fam. Code §153.131 (b) It is a rebuttable presumption that the appointment of the parents of a child as joint managing conservators is in the best interest of the child. A finding of a history of family violence involving the parents of a child removes the presumption under this subsection.
Utah	Utah Code §§ 81-9-205 (2) (a) There is a rebuttable presumption that joint legal custody is in the best interest of the minor child, except in cases when there is: (i) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the minor child, a parent, or a household member of the parent in accordance with Section 81-9-104; (ii) special physical or mental needs of a parent or minor 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 the factors described in Subsection (5) and Section 81-9-204. (b) A presumption for joint legal custody may be rebutted by showing by a preponderance of the evidence that it is not in the best interest of the minor child.
Vermont	15 Vt. Stat. §666 (a) Any agreement between the parents that divides or shares parental rights and responsibilities shall be presumed to be in the best interests of the child.
Virginia	Va. Code Ann. § 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. 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.

State	Relevant Statutes
West Virginia	W. Va. Code § 48-9-207 (b) If each of the child’s parents has been exercising a reasonable share of the parenting functions for the child, there shall be a rebuttable presumption that an allocation of decision-making responsibility to both parents jointly is in the child’s best interests. The presumption may be rebutted by a showing that joint allocation of decision-making responsibility is not in the child’s best interest upon proof by a preponderance of the evidence of relevant factors under §48-9-209 of this code. The court’s determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child’s best interest.
Wisconsin	Wis. Stat. § 767.41 (2) (am) Except as provided in par. (d), the court shall presume that joint legal custody is in the best interest of the child.
Wyoming	Wyo. Stat. § 20-2-201 (d) The court shall order custody in well defined terms to promote understanding and compliance by the parties. In determining custody a court shall not favor or disfavor any form of custody. Custody shall be crafted to promote the best interests of the children, and may include any combination of joint, shared or sole custody.
	WY SB 117 (2025, Failed): Relates to child custody; provides a presumption for issuance of an order of shared child custody as specified; provides definitions; specifies applicability; provides for an effective date.