

1 HB120
2 216096-1
3 By Representative Ball
4 RFD: Judiciary
5 First Read: 13-JAN-22

SYNOPSIS: Under existing law a court may consider certain factors when making child custody determinations.

This bill would allow the court to consider evidence of parental alienation when making child custody determinations.

A BILL
TO BE ENTITLED
AN ACT

Relating to child custody; to amend Sections 30-3-2 and 30-3-152, Code of Alabama 1975, to allow the court to consider evidence of parental alienation in child custody decisions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 30-3-2 and 30-3-152, Code of Alabama 1975, are amended to read as follows:

"§30-3-2.

1 "(a) In all cases of voluntary separation of husband
2 and wife, the circuit court ~~has power~~, on the motion of either
3 party, 20 days' notice thereof being given to the other, ~~to~~
4 may permit either the father or mother to have the custody and
5 control of the children and to superintend and direct their
6 education, having regard to the prudence, ability, and fitness
7 of the parents, and the age and sex of the children. When
8 considering the fitness of the parents, the court may consider
9 any evidence of a parent engaging in parental alienation. For
10 the purposes of this section, the term parental alienation
11 refers to a child's experience of being manipulated by one
12 parent to turn against the other parent.

13 "(b) Upon the hearing of the motion, witnesses may
14 be examined orally or testimony may be taken as in other civil
15 actions. While the application is pending, the court may
16 direct an injunction or make any order that the safety and
17 well-being of the wife or children may require.

18 "§30-3-152.

19 "(a) The court shall in every case consider joint
20 custody but may award any form of custody which is determined
21 to be in the best interest of the child. In determining
22 whether joint custody is in the best interest of the child,
23 the court shall consider the same factors considered in
24 awarding sole legal and physical custody and all of the
25 following factors:

26 "(1) The agreement or lack of agreement of the
27 parents on joint custody.

1 "(2) The past and present ability of the parents to
2 cooperate with each other and make decisions jointly.

3 "(3) The ability of the parents to encourage the
4 sharing of love, affection, and contact between the child and
5 the other parent.

6 "(4) Any history of or potential for child abuse,
7 spouse abuse, ~~or~~ kidnapping, or parental alienation, as
8 defined in Section 30-3-2.

9 "(5) The geographic proximity of the parents to each
10 other as this relates to the practical considerations of joint
11 physical custody.

12 "(b) The court may order a form of joint custody
13 without the consent of both parents, when it is in the best
14 interest of the child.

15 "(c) If both parents request joint custody, the
16 presumption is that joint custody is in the best interest of
17 the child. Joint custody shall be granted in the final order
18 of the court unless the court makes specific findings as to
19 why joint custody is not granted."

20 Section 2. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.