



SYNOPSIS:

Existing law specifies that it is the policy of this state that parents who are divorced or separated have frequent and continuing contact with their children. Existing law also specifies that joint custody does not necessarily mean equal physical custody.

This bill would remove existing code language that provides for custody of a child to be granted to a husband in cases of abandonment by the wife only after the child reaches seven years of age.

This bill would revise existing definitions regarding custody to be consistent with terminology used in case law.

Existing law defines "joint physical custody" as frequent and substantial contact with each parent but does not define what frequent and substantial contact means.

This bill would define frequent and substantial contact to mean that the child has equal or approximately equal time with both parents.

This bill would create a rebuttable presumption that joint custody is in the best interest of the child and establish uniform guidelines for a court to consider when determining any custody arrangement other



29           than joint custody.

30                   Existing law does not require a court to  
31 document that the court considered and rejected joint  
32 custody and the reasons for the rejection.

33                   This bill would require a court to document its  
34 reasons for deviating from the presumption that joint  
35 custody is in the best interest of the child.

36                   Existing law requires the parties in a child  
37 custody matter to submit a parenting plan only in cases  
38 where the parties request joint custody.

39                   This bill would require the parties to submit a  
40 parenting plan in all cases, and in the case of a  
41 contested divorce, follow a joint custody model; if a  
42 parent believes joint custody is not in the best  
43 interest of his or her child whose custody is at issue,  
44 he or she may file a motion for temporary relief.

45                   This bill would require the courts to expedite a  
46 motion for temporary relief, and provide certain  
47 penalties if a motion for temporary relief is filed in  
48 bad faith or without factual support.

49                   This bill would authorize the court to establish  
50 a parenting plan when the parties are unable to agree  
51 upon one.

52                   This bill would specify additional remedies to a  
53 party when a parent, without proper cause, fails to  
54 adhere to the time-sharing schedule in a parenting  
55 plan, including makeup parenting time and reimbursement  
56 for costs and attorney fees.



57                   This bill would set requirements for the  
58                   modification of physical custody in certain  
59                   circumstances.

60                   This bill would also specify that this act does  
61                   not limit domestic or family abuse laws.

62  
63  
64                   A BILL  
65                   TO BE ENTITLED  
66                   AN ACT

67  
68                   Relating to child custody; to amend Sections 30-3-1,  
69                   30-3-150, 30-3-151, 30-3-152, 30-3-153, and 30-3-157 of the  
70                   Code of Alabama 1975, and to add Section 30-3-158 to the Code  
71                   of Alabama 1975, relating to child custody; to remove existing  
72                   code language that provides for custody of a child to be  
73                   granted to a husband in cases of abandonment by the wife only  
74                   after the child reaches seven years of age; to provide further  
75                   for the policy of this state regarding child custody; to  
76                   provide further for definitions; to provide that there is a  
77                   rebuttable presumption that joint custody is in the best  
78                   interest of the child, which can be overcome only by evidence;  
79                   to establish factors for a court to consider when determining  
80                   any custody arrangement other than joint custody; to require a  
81                   parenting plan and to authorize the court to establish a  
82                   parenting plan in certain situations; to specify remedies when  
83                   a party fails to adhere to certain provisions in a parenting  
84                   plan; to set requirements for the modification of physical



85 custody in certain circumstances; to allow a parent to file a  
86 petition for temporary relief if he or she believes joint  
87 custody is not in the best interest of the child; to provide  
88 certain remedies if an unsupported or bad faith petition for  
89 temporary relief is filed; and to provide that nothing in this  
90 act shall be construed to limit domestic or family abuse  
91 provisions of the law.

92 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

93 Section 1. This act shall be known and may be cited as  
94 the Best Interest of the Child Protection Act of 2025.

95 Section 2. Sections 30-3-1, 30-3-150, 30-3-151,  
96 30-3-152, 30-3-153, and 30-3-157, Code of Alabama 1975, are  
97 amended to read as follows:

98 "§30-3-1

99 Upon granting a divorce, the court may give the custody  
100 and education of the children of the marriage to either father  
101 or mother, ~~as may seem right and proper,~~ having regard to the  
102 moral character and prudence of ~~the parents~~ each parent and  
103 the age and sex of the children, and, pending the action, may  
104 make ~~such~~ orders in respect to the custody of the children ~~as~~  
105 in the best interest of their safety and well-being ~~may~~  
106 ~~require. But in cases of abandonment of the husband by the~~  
107 ~~wife, he shall have the custody of the children after they are~~  
108 ~~seven years of age, if he is a suitable person to have such~~  
109 ~~charge.~~"

110 "§30-3-150

111 ~~Joint Custody.~~ It is the policy of this state to assure  
112 that minor children have frequent and continuing contact with



parents who have shown the ability to act in the best interest of their children and to encourage parents to share in the rights and responsibilities of ~~rearing~~ raising their children after the parents have separated or dissolved their marriage. ~~Joint custody does not necessarily mean equal physical custody.~~ It is the intent of the Legislature that this chapter be implemented in a manner that recognizes the importance of family and the fundamental rights of parents and children. The social science research indicates it is in the best interest of children to have consistent and maximized contact with parents. In custody hearings, courts are encouraged to keep this in mind when determining the best interest of the child."

"§30-3-151

For the purposes of this article, the following words shall have the following meanings:

(1) JOINT CUSTODY. Joint legal custody and joint physical custody.

(2) JOINT LEGAL CUSTODY. ~~Both~~ A custody arrangement where both parents have equal rights and responsibilities for major decisions concerning the child, including, but not limited to, the education of the child, health care, and religious training, and the responsibility to discuss those decisions and consider the wishes and concerns of each parent and the child. The court may designate one parent to have ~~sole power to make certain decisions while both parents retain equal rights and responsibilities for other decisions~~ final decision-making authority to make certain major decisions; however, that designation does not negate the responsibility



141 of that parent to discuss those decisions with the other  
142 parent and to consider the other parent's wishes and concerns.  
143 In the event of an impasse and in the absence of an express  
144 award of final decision-making authority, the primary physical  
145 custodian shall have final decision-making authority for those  
146 decisions.

147 (3) JOINT PHYSICAL CUSTODY. ~~Physical~~ A custody  
148 arrangement where physical custody is shared by the parents in  
149 a way that assures the child frequent and substantial contact  
150 with each parent. ~~Joint physical custody does not necessarily~~  
151 ~~mean physical custody of equal durations of time.~~ For purposes  
152 of this subdivision, "frequent and substantial contact" means  
153 that the child has equal or approximately equal time with both  
154 parents.

155 (4) NONRESIDENTIAL CUSTODIAL PARENT. The parent with  
156 whom the child does not live the majority of the time and who  
157 does not have the primary authority and responsibility for the  
158 day-to-day care and decisions relating to the raising of a  
159 child or the authority to establish where a child will live,  
160 but who does have the authority and responsibility for the  
161 day-to-day care and decisions related to the raising of a  
162 child when the child is in his or her physical custody and not  
163 in the physical custody of the parent with primary physical  
164 custody as outlined in the parenting plan.

165 (5) PARENTING PLAN. A plan specifying the time which a  
166 minor child will spend with each parent and which may include  
167 provisions for progressive periods of time-sharing within the  
168 court ordered time-sharing schedules based on the increasing



age and developmental considerations of the child, the need of the child to be reunited with a parent, or any other consideration pertaining to the child's best interest. The inclusion of a progressive provision in a parenting plan or a custody order does not alter the type of physical custody ordered by the court or the burden of proof required to modify custody.

(6) PRIMARY PHYSICAL CUSTODY. A status of custody making one parent the predominant physical custodian of the child and granting the other parent the status of the nonresidential custodial parent, unless the judge specifically grants the other parent the status of restricted physical custody. The parent with primary physical custody has the primary authority and responsibility for the day-to-day care and decisions related to the raising of the child and to establish where the child will live.

(7) RESTRICTED PHYSICAL CUSTODY. A status of custody where a parent's physical access to a child is limited to supervised custody, no overnight custody, a suspension of physical contact, or any other restrictions on custody determined by the court to be in the best interest of the child.

~~+(4)~~ (8) SOLE LEGAL CUSTODY. One ~~One~~ A status of custody where one parent has sole rights and responsibilities to make major decisions concerning the child, including, but not limited to, the education of the child, health care, ~~and~~ religious training, and the civil, cultural, and athletic activities of the child.



~~(5) SOLE PHYSICAL CUSTODY. One parent has sole physical custody and the other parent has rights of visitation except as otherwise provided by the court."~~

"§30-3-152

~~(a) The court shall in every case consider joint custody but may award any form of custody which is determined to be~~ There shall be a rebuttable presumption that joint custody is in the best interest of the child. This rebuttable presumption may be overcome by a preponderance of the evidence, set forth in written findings of fact, that joint custody is not in the best interest of the child. In the event the presumption is rebutted, the court shall enter an order that includes all of the following:

(1) The court's reason for deviating from the joint custody arrangement.

(2) The facts and findings concerning the basis for the court's determination.

(3) A parenting plan that maximizes the time each parent has with the child and is consistent with ensuring the welfare of the child.

(b) 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~~ any other form of custody arrangement and all of the following factors, but may weigh various factors differently based on the factors presented and the best interest of the child:

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





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

227 (3) The ability of the parents to encourage the sharing  
228 of love, affection, and contact between the child and the  
229 other parent.

230 (4) Any history of or potential for child abuse, spouse  
231 abuse, or kidnapping.

232 (5) The geographic proximity of the parents to each  
233 other as this relates to the practical considerations of joint  
234 physical custody.

235 ~~(b)~~ (c) The court may order a form of joint custody  
236 without the consent of both parents, when it is in the best  
237 interest of the child.

238 ~~(c)~~ (d) If both parents request joint custody, ~~the~~ there  
239 is a presumption ~~is~~ that joint custody is in the best interest  
240 of the child. Joint custody, when requested by both parents,  
241 shall be granted in the final order of the court unless the  
242 court makes specific findings as to why joint custody is not  
243 granted.

244 (e) If joint custody is not awarded by the court, all  
245 of the following factors shall be considered by the court when  
246 determining which other custody arrangement is in the best  
247 interest of the child. The court may weigh the following  
248 factors differently based on the facts presented and the best  
249 interest of the child:

250 (1) The preferences of the parents.

251 (2) The moral, mental, and physical fitness of each  
252 parent.



253           (3) The capacity of each parent to engage in a loving  
254 relationship with the child and to provide for the needs of  
255 the child, including the child's emotional, social, moral,  
256 material, and educational needs.

257           (4) The history of cooperation between the parents,  
258 including the past and present history and the capacity of  
259 each parent to facilitate or encourage a continuing  
260 parent-child relationship with both parents.

261           (5) Each parent's home environment.

262           (6) Each parent's criminal history or evidence of  
263 violence or sexual, mental, or physical abuse.

264           (7) Evidence of substance abuse by either parent.

265           (8) The child's age and any special needs.

266           (9) Characteristics of each individual seeking custody,  
267 including age, character, stability, and mental and physical  
268 health.

269           (10) The report and recommendation of any expert  
270 witnesses or other independent investigator.

271           (11) Military considerations in accordance with state  
272 and federal law.

273           (12) The child's current adjustment to or involvement  
274 with his or her community.

275           (13) The relationship between each parent and the  
276 child.

277           (14) The preference of the child if the child is of  
278 sufficient age and maturity.

279           (15) The relationship between the child and the child's  
280 peers, siblings, or other relatives.



281       (16) Each parent's knowledge and familiarity with the  
282 child and level of involvement in the child's life both prior  
283 to and after the separation of the parents.

284       (17) The effect on the child of disrupting or  
285 continuing an existing custodial status.

286       (18) Any history or evidence of parental alienation.  
287 Parental alienation in a child is the result of intentional  
288 and purposeful behavior by one parent to undermine and sever  
289 the child's relationship with the other parent.

290       (19) Any other relevant factors."

291       "§30-3-153

292       (a) ~~In order to implement joint custody, the~~ The court  
293 shall require ~~the parents to submit, as part of their~~  
294 ~~agreement,~~ each parent, separately or together, to submit a  
295 parenting plan with provisions covering matters relevant to  
296 the care and custody of the child, including, but not limited  
297 to, all of the following:

298       (1) ~~The care and education of the child.~~ The ways in  
299 which the parents will share tasks and be responsible for the  
300 daily upbringing of the child.

301       (2) ~~The medical and dental care of the child.~~ The  
302 amount of time the child will spend with each parent.

303       (3) ~~Holidays and vacations.~~ A designation of which  
304 parent is responsible for the health care of the child and  
305 school-related matters, including the address to be used to  
306 establish residence for school and other activities.

307       (4) ~~Child support.~~ Transportation arrangements for the  
308 child, including which parent bears the costs of transporting



309 the child.

310 (5) Other necessary factors that affect the physical or  
311 emotional health and well-being of the child.

312 (6) The methods and technologies that the parents  
313 intend to use to communicate with the child and each other.

314 ~~(6)~~ (7) Designating the parent possessing primary  
315 authority and responsibility regarding involvement of the  
316 minor child in academic, religious, civic, cultural, athletic,  
317 and other activities, and in medical and dental care if the  
318 parents are unable to agree on these decisions. The exercise  
319 of this primary authority is not intended to negate the  
320 responsibility of the parties to notify and communicate with  
321 each other as provided in this article.

322 (8) Child support and the division of any expenses in  
323 addition to child support, as provided in Rule 32 of the  
324 Alabama Rules of Judicial Administration.

325 (b) If the parties are unable to reach an agreement as  
326 to the provisions in subsection (a), the court shall set the  
327 plan.

328 (c) Any parenting plan submitted by the parents  
329 pursuant to subsection (a) shall follow a joint custody model,  
330 unless subsection (d) applies.

331 (d) If a parent believes, based upon the facts and  
332 circumstances of the case or any factors to be considered by  
333 the court pursuant to Section 30-3-152, that joint custody is  
334 not in the best interest of a child whose custody is being  
335 determined, the parent shall file, in conjunction with the  
336 parenting plan, a verified motion for temporary relief,



pendente lite. A verified motion for temporary relief, pendente lite filed pursuant to this subsection shall state with specificity sufficient allegations of fact to justify relief. The court shall expeditiously consider all motions filed pursuant to this section.

(e) If the court determines that a party filed a verified motion for temporary relief, pendente lite in the absence of an adequate factual basis or in bad faith, the court shall award reasonable attorney fees to the non-filing party to be paid by the filing party. The court may also impose other sanctions it deems reasonable, including, but not limited to, providing that the unsupported or bad faith filing may be considered as a negative factor during the custody determination."

"§30-3-157

(a) This article shall not be construed as grounds for modification of an existing order. ~~This article shall not be construed as affecting the standard applicable to a subsequent modification.~~

(b) When a parent seeks to modify physical custody of the child after a prior decree awarding primary physical custody to another person, the parent seeking modification must prove all of the following:

(1) That a material change in circumstances has occurred since the previous judgment.

(2) That the child's best interest will be materially promoted by a change of physical custody.

(3) That the benefits of the change will more than



offset the inherently disruptive effect resulting from the  
change in physical custody."

Section 3. Section 30-3-158 is added to the Code of  
Alabama 1975, to read as follows:

§30-3-158

(a) When a parent refuses to adhere to the time-sharing  
schedule in the parenting plan ordered by the court without  
proper cause, the court may take any of the following actions:

(1) After calculating the amount of time-sharing  
improperly denied by a parent, issue an order awarding the  
parent who was denied time a sufficient amount of extra  
time-sharing to compensate for the time-sharing missed. The  
order shall be issued as expeditiously as possible in a manner  
consistent with the best interest of the child and scheduled  
in a manner that is convenient for the parent deprived of  
time-sharing. In ordering any makeup time-sharing, the court  
shall schedule the time-sharing in a manner that is consistent  
with the best interest of the child or children, that is  
convenient for the nonoffending parent, and at the expense of  
the noncompliant parent.

(2) Order the parent who did not provide time-sharing  
or did not properly exercise time-sharing under the  
time-sharing schedule to pay reasonable court costs and  
attorney fees incurred by the nonoffending parent to enforce  
the time-sharing schedule.

(3) Order the parent who did not provide time-sharing  
or did not properly exercise time-sharing under the  
time-sharing schedule to attend a parenting course approved by



393 the court. The parenting course shall educate the parent about  
394 the benefits of a child's relationship with both parents.

395 (4) Order the parent who did not provide time-sharing  
396 or did not properly exercise time-sharing under the  
397 time-sharing schedule to pay the actual costs incurred by the  
398 other parent because of the failure to provide time-sharing or  
399 the failure to properly exercise time-sharing as provided by  
400 the court order.

401 (5) Impose any other reasonable remedies as a result of  
402 noncompliance.

403 (b) The actions described in subsection (a) are in  
404 addition to existing remedies, including, but not limited to,  
405 contempt.

406 Section 4. A court of competent jurisdiction shall  
407 equally enforce all child custody and child support orders.

408 Section 5. Nothing in this act shall be construed to  
409 limit the domestic or family abuse provisions provided in  
410 Article 6 of Chapter 3, Title 30, Code of Alabama 1975.

411 Section 6. (a) The provisions of this act may not be  
412 construed to constitute a material change of circumstances for  
413 purposes of modifying an order in place before January 1,  
414 2026.

415 (b) The provisions of this act are severable. If any  
416 part of this act is declared invalid or unconstitutional, that  
417 declaration shall not affect the part which remains.

418 Section 7. This act shall become effective on January  
419 1, 2026.