

# HB53 INTRODUCED



1 HB53  
2 ENJX99C-1  
3 By Representative Sellers  
4 RFD: Judiciary  
5 First Read: 04-Feb-25  
6 PFD: 01-Oct-24



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SYNOPSIS:

Under existing law, it is the policy of the state to assure that minor children have frequent and continuing contact with parents who act in the best interest of their children.

This bill would create a rebuttable presumption that joint custody is in the best interest of the child, except in cases of domestic or family violence.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to child custody; to amend Sections 30-3-150, 30-3-151, 30-3-152, and 30-3-153; to create a rebuttable presumption of joint custody, except in cases of domestic or family violence.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§30-3-150

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



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29 parents who have shown the ability to act in the best interest  
30 of their children and to encourage parents to share in the  
31 rights and responsibilities of rearing their children after  
32 the parents have separated or dissolved their marriage. ~~Joint~~  
33 ~~custody does not necessarily mean equal physical custody."~~

34       "§30-3-151

35       For the purposes of this article the following words  
36 ~~shall~~ have the following meanings:

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

39           (2) JOINT LEGAL CUSTODY. A custody arrangement where  
40 both ~~Both~~ parents have equal rights and responsibilities for  
41 major decisions concerning the child, including, but not  
42 limited to, the education of the child, health care, and  
43 religious training. The court may designate one parent to have  
44 sole power to make certain decisions while both parents retain  
45 equal rights and responsibilities for other decisions.

46           (3) JOINT PHYSICAL CUSTODY. A custody arrangement where  
47 physical ~~Physical~~ custody is shared by the parents in a way  
48 that assures the child frequent and substantial contact with  
49 each parent. Joint physical custody does not necessarily mean  
50 physical custody of equal durations of time.

51           (4) SOLE LEGAL CUSTODY. A status of custody where one  
52 ~~One~~ parent has sole rights and responsibilities to make major  
53 decisions concerning the child, including, but not limited to,  
54 the education of the child, health care, and religious  
55 training.

56           (5) SOLE PHYSICAL CUSTODY. A status of custody where



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57 one ~~One~~ parent has sole physical custody and the other parent  
58 has rights of visitation except as otherwise provided by the  
59 court."

60 "§30-3-152

61 (a) Except as provided in Section 30-3-131, there shall  
62 be a presumption, rebuttable by a preponderance of evidence,  
63 that joint custody is in the best interest of the child. ~~The~~  
64 ~~court shall in every case consider joint custody but may award~~  
65 ~~any form of custody which is determined to be in the best~~  
66 ~~interest of the child.~~ In determining whether joint custody is  
67 in the best interest of the child, the court shall consider  
68 the same factors considered in awarding ~~sole legal and~~  
69 ~~physical custody~~ any other custody arrangement and all of the  
70 following factors:

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

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

75 (3) The ability of the parents to encourage the sharing  
76 of love, affection, and contact between the child and the  
77 other parent.

78 (4) Any history of or potential for child abuse, spouse  
79 abuse, or kidnapping.

80 (5) The geographic proximity of the parents to each  
81 other as this relates to the practical considerations of joint  
82 physical custody.

83 (b) The court may order a form of joint custody without  
84 the consent of both parents, when it is in the best interest



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85 of the child.

86 (c) ~~If both parents request joint custody, the~~  
87 ~~presumption is that joint custody is in the best interest of~~  
88 ~~the child.~~ Joint custody shall be granted in the final order  
89 of the court unless the court makes specific findings as to  
90 why joint custody is not granted."

91 "§30-3-153

92 (a) If the presumption of joint custody is not  
93 rebutted, in ~~In~~ order to implement joint custody, the court  
94 shall require the parents to submit, as part of their  
95 agreement, provisions covering matters relevant to the care  
96 and custody of the child, including, but not limited to, all  
97 of the following:

98 (1) The care and education of the child.

99 (2) The medical and dental care of the child.

100 (3) Holidays and vacations.

101 (4) Child support.

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

104 (6) Designating the parent possessing primary authority  
105 and responsibility regarding involvement of the minor child in  
106 academic, religious, civic, cultural, athletic, and other  
107 activities, and in medical and dental care if the parents are  
108 unable to agree on these decisions. The exercise of this  
109 primary authority is not intended to negate the responsibility  
110 of the parties to notify and communicate with each other as  
111 provided in this article.

112 (b) If the parties are unable to reach an agreement as



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113 to the provisions in subsection (a), the court shall set the  
114 plan."

115 Section 2. This act shall become effective on October  
116 1, 2025.