

HB147 INTRODUCED



1 HB147
2 XD9DLZ7-1
3 By Representative Paschal
4 RFD: Judiciary
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6 PFD: 12-Jan-26



4 SYNOPSIS:

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

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

15 This bill would define frequent and substantial
16 contact to mean that the child has equal or
17 approximately equal time with both parents and would
18 revise existing definitions regarding custody to be
19 consistent with terminology used in case law.

20 This bill would create a rebuttable presumption
21 that joint custody is in the best interest of the
22 child, except in cases of domestic or family abuse, and
23 establish uniform guidelines for a court to consider
24 when determining any custody arrangement other than
25 joint custody.

26 Existing law does not require a court to
27 document that the court considered and rejected joint
28 custody and the reasons for the rejection.



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

32 Existing law requires the parties in a child
33 custody matter to submit a parenting plan only in cases
34 where the parties request joint custody.

35 This bill would require the parties to submit a
36 parenting plan that follows a joint custody model.

37 In cases where the court has determined that
38 domestic or family abuse occurred, this bill would
39 authorize the court to: (i) allow for parenting plans
40 to be submitted which do not reflect joint custody;
41 (ii) suspend the requirement that the perpetrator of
42 domestic or family abuse submit a parenting plan; or
43 (iii) set the plan.

44 This bill would provide that, if a parent
45 believes joint custody is not in the best interest of
46 his or her child whose custody is at issue, he or she
47 may file a motion for temporary relief, which the court
48 must expedite.

49 This bill would provide certain penalties if a
50 motion for temporary relief is filed in bad faith or
51 without factual support.

52 This bill would authorize the court to establish
53 a parenting plan when the parties are unable to agree
54 upon the plan.

55 This bill would specify additional remedies to a
56 party when a parent, without proper cause, fails to



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57 adhere to the time-sharing schedule in a parenting
58 plan, including makeup parenting time and reimbursement
59 for costs and attorney fees.

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 30-3-150,
69 30-3-151, 30-3-152, and 30-3-153 of the Code of Alabama 1975,
70 and to add Sections 30-3-158 and 30-3-159 to the Code of
71 Alabama 1975, relating to child custody; to provide further
72 for the policy of this state regarding child custody; to
73 provide further for definitions; to provide that there is a
74 rebuttable presumption that joint custody is in the best
75 interest of the child, which can be overcome only by evidence;
76 to provide an exception in cases of domestic or family abuse;
77 to establish factors for a court to consider when determining
78 any custody arrangement other than joint custody; to require a
79 parenting plan and to authorize the court to establish a
80 parenting plan in certain situations; to specify remedies when
81 a party fails to adhere to certain provisions in a parenting
82 plan; to allow a parent to file a petition for temporary
83 relief if he or she believes joint custody is not in the best
84 interest of the child; to provide certain remedies if an



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unsupported or bad faith petition for temporary relief is filed; and to provide that nothing in this act shall be construed to limit domestic or family abuse provisions of the law.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Best Interest of the Child Protection Act of 2026.

Section 2. 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 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:



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(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; provided, however, that designation does not negate the responsibility of that parent to discuss those decisions with the other parent and to consider the other parent's wishes and concerns. In the event of an impasse and in the absence of an express award of final decision-making authority, the primary physical custodian shall have final decision-making authority for those decisions.

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

(4) NONRESIDENTIAL CUSTODIAL PARENT. The parent with



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whom the child does not live the majority of the time and who does not have the primary authority and responsibility for the day-to-day care and decisions relating to the raising of a child or the authority to establish where a child will live, but who does have the authority and responsibility for the day-to-day care and decisions related to the raising of a child when the child is in his or her physical custody and not in the physical custody of the parent with primary physical custody as outlined in the parenting plan.

(5) PARENTING PLAN. A plan specifying the time that a minor child will spend with each parent and which may include provisions for progressive periods of time-sharing within the 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



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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 ~~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~~ Except as provided in Article 6 of this chapter, 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



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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.

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

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

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

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

~~(b)~~ (c) 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.

~~(c)~~ (d) If both parents request joint custody, ~~the~~ there



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225 is a presumption ~~is~~ that joint custody is in the best interest
226 of the child. Joint custody, when requested by both parents,
227 shall be granted in the final order of the court unless the
228 court makes specific findings as to why joint custody is not
229 granted.

230 (e) If joint custody is not awarded by the court, all
231 of the following factors shall be considered by the court when
232 determining which other custody arrangement is in the best
233 interest of the child. The court may weigh the following
234 factors differently based on the facts presented and the best
235 interest of the child:

236 (1) The preferences of the parents.

237 (2) The moral, mental, and physical fitness of each
238 parent.

239 (3) The capacity of each parent to engage in a loving
240 relationship with the child and to provide for the needs of
241 the child, including the child's emotional, social, moral,
242 material, and educational needs.

243 (4) The history of cooperation between the parents,
244 including the past and present history and the capacity of
245 each parent to facilitate or encourage a continuing
246 parent-child relationship with both parents.

247 (5) Each parent's home environment.

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

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

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

252 (9) Characteristics of each individual seeking custody,



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including age, character, stability, and mental and physical health.

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

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

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

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

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

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

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

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

(18) Any history or evidence of parental alienation. For the purpose of this subdivision, parental alienation occurs in a child as the result of intentional and purposeful behavior by one parent to undermine and sever the child's relationship with the other parent.

(19) Any other relevant factors."

"§30-3-153

(a) ~~In order to implement joint custody, the~~The court shall require ~~the parents to submit, as part of their~~



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~~agreement,~~ each parent, separately or together, to submit a parenting plan with provisions covering matters relevant to the care and custody of the child, including, but not limited to, all of the following:

(1) ~~The care and education of the child.~~ The ways in which the parents will share tasks and responsibilities for the daily upbringing of the child.

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

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

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

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

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

(7) A designation of which parent possesses~~(6)~~
~~Designating the parent possessing~~ primary authority and responsibility regarding involvement of the minor child in academic, religious, civic, cultural, athletic, and other activities, and in medical and dental care if the parents are unable to agree on these decisions. The exercise of this primary authority is not intended to negate the responsibility of the parties to notify and communicate with each other as



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provided in this article.

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

(b) (1) If the parties are unable to reach an agreement as to the provisions in subsection (a), the court shall set the plan.

(2) In cases in which the court determines that domestic or family abuse has occurred as provided in Article 6, the court may set the plan or suspend the requirement that the perpetrator of domestic or family abuse must submit a parenting plan.

(c) Any parenting plan submitted by the parents pursuant to subsection (a) shall follow a joint custody model, unless:

(1) Subsection (d) applies; or

(2) There is a determination by the court that domestic or family abuse has occurred, as provided in subdivision (b) (2).

(d) If a parent believes, based upon the facts and circumstances of the case or any factors to be considered by the court pursuant to Section 30-3-152, that joint custody is not in the best interest of a child whose custody is being determined, the parent shall file, in conjunction with the 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



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relief. The court shall expeditiously consider all motions filed pursuant to this subsection.

(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."

Section 3. Sections 30-3-158 and 30-3-159 are 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: (i) in a manner that is consistent with the best interest of the child or children; (ii) which is convenient for the nonoffending parent; and



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(iii) at the expense of the noncompliant parent. For the purposes of this section, the term "noncompliant parent" refers to the parent who did not provide time-sharing or did not properly exercise time-sharing under the time-sharing schedule.

(2) Order the noncompliant parent to pay reasonable court costs and attorney fees incurred by the nonoffending parent to enforce the time-sharing schedule.

(3) Order the noncompliant parent to attend a parenting course approved by the court. The parenting course shall educate the parent about the benefits of a child's relationship with both parents.

(4) Order the noncompliant parent to pay the actual costs incurred by the other parent because of the failure to provide time-sharing or the failure to properly exercise time-sharing as provided by the court order.

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

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

§30-3-159

(a) A court of competent jurisdiction shall equally enforce all child custody and child support orders.

(b) Nothing in this article shall be construed to limit the domestic or family abuse provisions provided in Article 6 of Chapter 3, Title 30.

(c) The provisions of this act may not be construed to



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393 constitute a material change of circumstances for purposes of
394 modifying an order in place before January 1, 2027.

395 Section 4. The provisions of this act are severable. If
396 any part of this act is declared invalid or unconstitutional,
397 that declaration shall not affect the part which remains.

398 Section 5. This act shall become effective on January
399 1, 2027.