



HOUSE BILL 735: Presumption of Shared Parenting.

2023-2024 General Assembly

Committee:	House Judiciary 3. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 2, 2023
Introduced by:	Reps. Pierce, White, Riddell	Prepared by:	Debbie Griffiths Staff Attorney
Analysis of:	PCS to First Edition H735-CSC1a-19		

OVERVIEW: *House Bill 735 would create a rebuttable presumption that joint custody and shared parenting is in the best interests of the child. Shared parenting would be defined as the child spending as close to an equal amount of time with each parent as possible.*

The PCS to House Bill 735 would clarify that shared parenting is a joint physical custody schedule where the child spends as close to equal time with each parent as possible. The PCS would also clarify that the 11 factors used in determining a shared parenting schedule is not an exhaustive list. The PCS would also provide an allocation of ten thousand dollars (\$10,000) to the Administrative Office of the Courts to study the impact shared parenting would have on the caseload of the court's docket.

CURRENT LAW: The policy of the State regarding child custody includes encouraging focused, good faith, child-centered parenting agreements to reduce litigation and promote the child's best interests; encouraging parents to take responsibility for their child by setting expectations that parenthood is a significant and ongoing responsibility and to encourage both parents to share equitably in the rights and responsibilities of parenting; and, encouraging court practices that reflect active and ongoing parent participation in the child's life if that is in the child's best interest.

The court must make a custody determination based on what is in the best interests of the child after considering the evidence presented. In making that determination, the court must consider all relevant factors including acts of domestic violence between the parties, the safety of the child, and the safety of either party from domestic violence by the other party.

BILL ANALYSIS: **Section 1** of the bill would add a new policy of the State to encourage parental agreements that establish joint physical custody through shared parenting so that a child spends as close to equal time with each parent as possible.

Section 2 of the bill would amend the purpose of custody mediation to add the goal of equalizing the amount of time the child spends with each parent to the greatest extent possible after consideration of the required shared parenting factors.

Section 3 would create a rebuttable presumption that shared parenting is in the best interests of the child. Shared parenting would be defined as a joint physical custody schedule where the child spends as close to equal time with each parent as possible. The court would consider all information relevant to the best interests of the child in determining a shared parenting schedule including:

- The wishes of each parent and the child as to custody.
- The relationship the child has with their parents, siblings, and any other person who may significantly affect the child's best interests.

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House 735 PCS

Page 2

- The motivations of the adults participating in the litigation.
- The child's adjustment and proximity to their home, school, and community.
- The physical and mental health of all parties.
- Whether there have been acts of domestic violence against the child or other party, the impact that any acts of domestic violence or abuse have had on the child, and whether a party has made any effort at completing any domestic violence treatment, counseling, or program.
- The extent to which any party has cared for, nurtured, or financially supported the child.
- The likelihood that a parent will allow frequent, meaningful, and continuing contact with the other parent, unless the court finds that a continuing relationship with the other parent will endanger the safety or health of the child.
- The intent of the parent or parents and the circumstances under which a child was placed with another person, agency, organization, or institution.

The presumption of shared parenting and joint custody could be rebutted if one or more of the following apply:

- After considering all relevant information, the court determines, by clear and convincing evidence, that shared parenting is not in the best interests of the child.
- The parties reach an agreement on all custody issues.
- One of the parties does not request sole, primary, or joint custody.

SECTION 4. There would be a one-time allocation of ten-thousand dollars to AOC to study the impact shared parenting would have on the caseload of the court's docket.

EFFECTIVE DATE: This bill would become effective when it becomes law and would apply to claims for custody and motions to modify custody filed on or after that date.