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**To:** Members of The Senate Judicial Proceedings Committee

**From:** Family Law Section Council (FLSC)

**Date:** February 5, 2025

**Subject:** Senate Bill 521:  
Child Custody-Rebuttable Presumption of Joint Custody

**Position:** OPPOSED

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The Maryland State Bar Association (MSBA) FLSC **opposes Senate Bill 521.**

This testimony is submitted on behalf of the Family Law Section Council (“FLSC”) of the Maryland State Bar Association (“MSBA”). The FLSC is the formal representative of the Family Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and law and, at the same time, tries to bring together the members of the MSBA who are concerned with family related laws and in reforms and improvements in such laws through legislation or otherwise. The FLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,100 attorney members.

In 2013, the General Assembly passed HB687, convening the Commission on Child Custody Decision Making. The Commission was charged with studying child custody decision-making and offering recommendations to improve and bring statewide uniformity to custody determinations. The Commission issued its Final Report on December 1, 2014. The Final Report included a Proposed Draft Custody Statute to include factors to be utilized by Judges in making custody determinations in similar form this year as SB548. The Final Report concludes “there should be no presumed schedule of any kind” and “as a general rule, a minimum of 30 to 33 percent time with each parent is optimal for a child when both parents are emotionally healthy and focused on the needs of their child, in the context of a parenting plan based on the child’s developmental age and needs.”<sup>1</sup>

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<sup>1</sup> Final Report, p. 35, emphasis added.

SB521 creates a rebuttable presumption in an initial custody proceeding (when there is no existing custody agreement or order) that joint legal custody and joint physical custody of equal timesharing are in a child's best interests.

A "presumption" is a conclusion a court must make when certain threshold facts are established, even if the facts would otherwise be insufficient to reach that particular conclusion. A "rebuttable presumption" is a presumption that that must be reached in the absence of evidence to the contrary.

Custody consists of two components: 1) legal custody, which is decision-making about important issues such as health, education, and religious upbringing; and 2) physical custody, which is where a child lives and when a child spends time/has visitation with both parents.

Currently, the standard for determining custody of a child is the "best interests of the child". This requires a court to consider all the facts and circumstances of the individual family before determining custody for the specific child. Under current law, both parents are the "joint natural guardians of their minor child" and "[n]either parent is presumed to have any right to custody that is superior to the right of the other parent."<sup>2</sup>

Judges already have the authority to issue joint custody orders, but only after considering all the facts and circumstances and determining that it is in the best interests of the individual child/ren at the center of any given case.

A presumption does not account for the specific needs of each family and each child, but elevates the wishes of the parents over the best interests of the children. Orders based on nothing more than a presumption, without due and exacting consideration of whether joint custody is truly in the best interests of the specific children involved, are likely to lead to more discord between the parents, family chaos, and harm to the children. This is especially true when joint custody is imposed over the objections of one or both parents, which is almost certainly going to be the situation in any case that has to be resolved by litigation as opposed to an agreement between the parties.

There are additional problems with SB521:

The rebuttable presumption would apply at both the *pendente lite* hearing on temporary custody (so, custody until the final custody merits trial) and at the final custody merits trial. Not all jurisdictions determine *pendente lite* legal or physical custody (i.e. Montgomery

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<sup>2</sup> Maryland Family Law Article §5-203

County). SB521 encourages more *pendente lite* litigation. It also prioritizes equal physical custody over temporary stability, further uprooting children. It could result in a change from the status quo that existed by the parents' agreement prior to filing suit. Additionally, in many jurisdictions, *pendente lite* hearings occur early in the case, when there is insufficient time to conduct discovery and obtaining relevant documents and information to inform the ultimate decision. This prejudices parents who are unable to sufficiently prepare before their trial or will result in delayed *pendente lite* hearings so parents can conduct discovery and therefore result in prolonged and more contentious litigation.

SB521 refers to “permanent” proceedings, but custody is always modifiable in the event of a material change in circumstance. Custody is never “permanent”, although a custody determination may be “final” and no longer appealable, subject to modification.

SB521's language intending to “equalize” the parents' positions before the court - “regardless of a parent's marital status or gender” – is too narrow. What about: sexual orientation; gender identity; age; race, color, or national origin; religious affiliation, belief, creed, or opinion; mental or physical disability; economic circumstances; or, extramarital sexual conduct? Does the presumption not apply in these circumstances? Or, does the presumption operate against a parent for these unmentioned reasons?

SB521 enumerates factors the court “may” but is not required to consider when determining the child's best interests in light of the rebuttable presumption. This invites a court to disregard the factors and simply rubber stamp joint custody regardless of the enumerated factors. Furthermore, the factors enumerated in SB521 are not a comprehensive list mirroring the concepts which have been judicially accepted in years of Maryland case law<sup>3</sup> or from the Commission Final Report.

SB521 does not require the court to articulate the basis for its decision, the factors it considered, and its analysis of the presumption in a particular case. Without this requirement, parents will continue to have no better understanding of the court's reasoning than under current law and practice (which do not require this).

A recent in-depth review of the child custody determination statutes across our country revealed that every single state in our country utilizes the “Best Interest of the Child” legal standard for custody determinations. The review also revealed that only 18 states have statutes establishing a rebuttable presumption for joint custody, and of those 18 states, 50% (9) of those statutes apply the rebuttable presumption if the parties agree that it is in the best interests of

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<sup>3</sup> See *Montgomery County v. Sanders*, 38 Md. App. 406 (1978); *Taylor v. Taylor*, 306 Md. 290 (1986); *Santo v. Santo*, 448 Md. 620, 626 (2016).



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the child(ren). Of the 18 states with rebuttable presumption statutes, only 4 include language of equal physical custody time. To enact SB521, Maryland would be included in a very small minority of states on the critically important issue of judicial determinations of physical custody for our children.<sup>4</sup> There is no legal justification or support for making such a drastic change to decades of Maryland statutory and case law on the issue of custody determinations.

Moreover, last month, the MSBA conducted a survey of the members of the Family Law Section asking the question of: “Should MD adopt a rebuttable presumption in favor of joint custody for parent?”, to which 76.47% of the responses were No. A majority of Maryland’s family law attorneys are not in support of making such a drastic change to decades of Maryland statutory and case law on the issue of custody determinations.

For the reason(s) stated above, the MSBA FLSC **opposes Senate Bill 521 and urges a unfavorable committee report.**

Should you have any questions, please contact Michelle Smith, Esquire at 410-280-1700 or [msmith@lawannapolis.com](mailto:msmith@lawannapolis.com).

**Enclosures:**

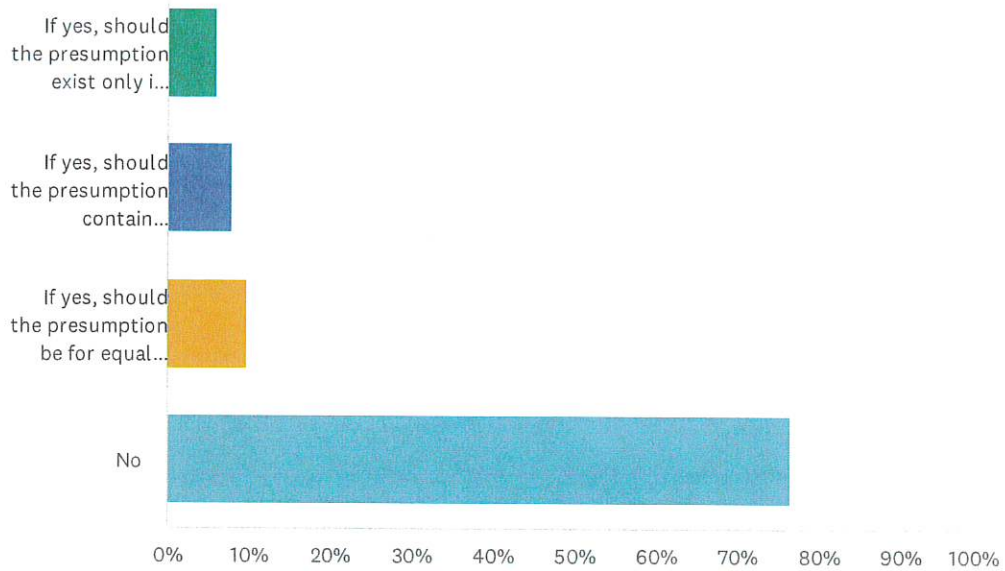
MSBA Family Law Section Poll result Q3  
US Custody Statutes Chart  
2024 Custody Statute Analysis

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<sup>4</sup> See attached chart and supporting detail documents

### Q3 Should MD adopt a rebuttable presumption in favor of joint custody for parents?

Answered: 51 Skipped: 0



**ANSWER CHOICES**

**RESPONSES**

|  |        |           |
|--|--------|-----------|
| If yes, should the presumption exist only if the parents agree to joint custody?         | 5.88%  | 3         |
| If yes, should the presumption contain language for a presumed amount of parenting time? | 7.84%  | 4         |
| If yes, should the presumption be for equal parenting time?                              | 9.80%  | 5         |
| No   | 76.47% | 39        |
| <b>TOTAL</b>   |        | <b>51</b> |

|               | 2024                            | US Custody Statutes | Analysis                                  | MSBA Family Law                          | Section                                 |   |                          |
|---------------|---------------------------------|---------------------|---|--|---|---|--------------------------|
| States        | Best Interest of Child Standard | Custody Preference  | Rebuttable Presumption for joint custody? | Rebuttable Presumption for 50/50 custody | Rebuttable Presumption if parties agree | Rebuttable Presumption or Restrictions against custody? | Custody Factors Included |
| Alabama       | X                               |                     | X   |  | Y                                       | X   | X                        |
| Alaska        | X                               |                     |   |  |   | X   | X                        |
| Arizona       | X                               | X                   |   |  |   | X   | X                        |
| Arkansas      | X                               | X                   | X   |  |   | X   |                          |
| California    | X                               |                     | X   |  | Y                                       | X   | X                        |
| Colorado      | X                               | X                   |   |  |   | X   | X                        |
| Connecticut   | X                               |                     | X   |  | Y                                       |   | X                        |
| D.C.          | X                               |                     | X   |  |   | X   | X                        |
| Delaware      | X                               |                     |   |  |   | X   | X                        |
| Florida       | X                               | X                   | X   | Y  |   | X   | X                        |
| Georgia       | X                               | X                   | X   |  |   |   | X                        |
| Hawaii        | X                               | X                   |   |  |   | X   | X                        |
| Idaho         | X                               | X                   | X   |  |   | X   | X                        |
| Illinois      | X                               |                     | X   |  |   | X   | X                        |
| Indiana       | X                               |                     |   |  |   |   | X                        |
| Iowa          | X                               | X                   |   |  |   | X   | X                        |
| Kansas        | X                               | X                   |   |  |   | X   | X                        |
| Kentucky      | X                               | X                   | X   | Y  |   | X   | X                        |
| Louisiana     | X                               | X                   |   |  |   | X   | X                        |
| Maine         | X                               | X                   |   |  |   | X   | X                        |
| Maryland      | X                               | X                   |   |  |   | X   |                          |
| Massachusetts | X                               |                     |   |  |   | X   |                          |

|                | 2024                            | US Custody Statutes | Analysis                                  | MSBA Family Law                          | Section                                 |   |                          |
|----------------|---------------------------------|---------------------|---|--|---|---|--------------------------|
| States         | Best Interest of Child Standard | Custody Preference  | Rebuttable Presumption for joint custody? | Rebuttable Presumption for 50/50 custody | Rebuttable Presumption if parties agree | Rebuttable Presumption or Restrictions against custody? | Custody Factors Included |
| Michigan       | X                               | X                   |   |  |   |   |                          |
| Minnesota      | X                               |                     | X   |  | Y                                       | X   | X                        |
| Mississippi    | X                               | X                   |   |  | Y                                       | X   |                          |
| Missouri       | X                               | X                   | X   | Y  | Y                                       | X   | X                        |
| Montana        | X                               | X                   |   |  |   |   | X                        |
| Nebraska       | X                               | X                   |   |  | Y                                       |   | X                        |
| Nevada         | X                               | X                   | X   |  | Y                                       | X   | X                        |
| New Hampshire  | X                               | X                   |   |  |   |   | X                        |
| New Jersey     | X                               | X                   |   |  |   | X   | X                        |
| New Mexico     | X                               |                     | X   |  |   |   | X                        |
| New York       | X                               |                     |   |  |   | X   |                          |
| North Carolina | X                               |                     |   |  |   |   |                          |
| North Dakota   | X                               |                     |   |  |   | X   | X                        |
| Ohio           | X                               |                     |   |  |   | x   | X                        |
| Oklahoma       | X                               | X                   |   |  |   |   |                          |
| Oregon         | X                               |                     |   |  |   | X   | X                        |
| Pennsylvania   | X                               | X                   |   |  |   | X   | X                        |
| Rhode Island   | X                               | X                   |   |  |   | X   |                          |
| South Carolina | X                               |                     |   |  |   |   | X                        |
| South Dakota   | X                               |                     |   |  | Y                                       | X   | X                        |
| Tennessee      | X                               | X                   |   |  |   | X   | X                        |
| Texas          | X                               | X                   | X   |  |   |   | X                        |

|               | 2024                            | US Custody Statutes | Analysis                                  | MSBA Family Law                          | Section                                 |   |                          |
|---------------|---------------------------------|---------------------|---|--|---|---|--------------------------|
| States        | Best Interest of Child Standard | Custody Preference  | Rebuttable Presumption for joint custody? | Rebuttable Presumption for 50/50 custody | Rebuttable Presumption if parties agree | Rebuttable Presumption or Restrictions against custody? | Custody Factors Included |
| Utah          | X                               | X                   | X   |  |   |   | X                        |
| Vermont       | X                               |                     |   |  |   | X   | X                        |
| Virginia      | X                               | X                   |   |  |   |   | X                        |
| Washington    | X                               | X                   |   |  |   | X   | X                        |
| West Virginia | X                               | X                   | X   | Y  |   | X   | X                        |
| Wisconsin     | X                               | X                   | X   |  |   | X   | X                        |
| Wyoming       | X                               | X                   |   |  |   | X   | X                        |
| Totals        | 51                              | 32                  | 18  | 4  | 9                                       | 37  | 42                       |



2024 Custody Statute Analysis by Family Law Section, MSBA  
Contact: Michelle D. Smith, Esquire, msmith@lawannapolis.com

1. Legal Standard?
2. Custody Preference?
3. A rebuttable presumption for joint custody?
4. Rebuttable presumption or Restrictions against custody for one parent in certain circumstances?
5. Custody Factors included?

**Alabama: Ala. Code § 30-3-1, § 30-3-131, § 30-3-152,**

1. Best Interest Standard
2. No preference
3. Only if both parents agree, presumption that Joint custody is in the best interest of child
4. Rebuttable presumption against custody for parent found to have committed domestic or family violence
5. Custody Factors included

**Alaska: Alaska Stat. § 25.20.060, § 25.20.090, § 25.24.150**

1. Best Interest Standard
2. No preference
3. No rebuttable presumption for joint custody
4. Rebuttable presumption against custody for a parent who has a history of perpetrating domestic violence against the child, other parent, or a domestic living partner
5. Custody Factors included

**Arizona: Ariz. Rev. Stat. § 25-403, § 25-403.02, § 25-403.04**

1. Best Interest Standard
2. Preference for both parents sharing legal decision-making and maximizing parenting time – if consistent with best interest of child
3. No rebuttable presumption for joint custody
4. Rebuttable presumption against custody for parent who has abused drugs/alcohol in prior 12 months
5. Custody Factors included

**Arkansas: Ark. Code § 9-13-101**

1. Best Interest Standard
2. Preference for Joint custody
3. Rebuttable presumption that Joint custody is in the best interest of the child
4. Rebuttable presumption against custody for a parent who has a pattern of domestic abuse or sexual offense.
5. No Custody Factors included

**California: Cal. Fam. Code § 3011, § 3020, § 3044, 3080**

1. Best Interest Standard
2. No preference
3. If both parents agree, rebuttable presumption that joint custody is in the best interest of minor child
4. Custody not permitted for parent that committed DV or other crimes
5. Custody Factors included

**Colorado: Colo. Rev. Stat. § 14-10-124**

1. Best Interest Standard
2. Preference for frequent and continuing contact between each parent and the minor child
3. No rebuttable presumption for joint custody
4. Custody not permitted for parent that committed DV, child abuse, sexual abuse
5. Custody Factors included

**Connecticut: Conn. Gen. Stat. § 46b-56, 46b-56a**

1. Best interests Standard
2. No preference
3. If both parents agree, rebuttable presumption that joint custody is in the best interest of child
4. No rebuttable presumption against custody
5. Custody Factors included

**D.C.: D.C. Code § 16-914**

1. Best interest Standard
2. No preference
3. Rebuttable presumption for joint custody
4. No joint custody if one parent committed intra family violence, child abuse, child neglect, child kidnapping
5. Custody Factors included

**Delaware: Del. Code tit. 13, § 705A, § 722, § 728**

1. Best Interest Standard
2. No preference
3. No rebuttable presumption for joint custody
4. Rebuttable presumption against custody for parent who committed DV
5. Custody Factors included

**Florida: Fla. Stat. § 61.13(3)**

1. Best Interest Standard
2. Encourages frequent and continuing contact with both parents and both parents to share the rights and responsibilities, and joys, of childrearing
3. Rebuttable presumption for shared custody and equal time-sharing
4. Rebuttable presumption that shared custody is detrimental to the child if parent committed DV, certain felonies, sexual offense, or had parental rights terminated
5. Custody Factors included

**Georgia: Ga. Code § 19-9-3**

1. Best Interest Standard
2. Preference for continuing contact with parents in child's best interests
3. Rebuttable presumption of selection of parent by child at least 14 years old
4. No rebuttable presumption against joint custody
5. Custody Factors included

**Hawaii: Haw. Rev. Stat. § 571-46**

1. Best Interest Standard
2. Encourages frequent, continuing, and meaningful contact with both parents
3. No rebuttable presumption for joint custody
4. Rebuttable presumption that custody is detrimental to the child if parent committed family violence
5. Custody Factors included

**Idaho: Idaho Code § 32-717, § 32-717B,**

1. Best Interest Standard
2. Frequent and Continuing contact between each parent and child
3. Rebuttable presumption for joint custody
4. Rebuttable presumption against joint custody for parent who is perpetrator of DV
5. Custody Factors included

**Illinois: 750 Ill. Comp. Stat. 5/602.7, 5/602.7(b), 5/602.10, 5/603.10**

1. Best interest Standard
2. No preference
3. Rebuttable presumption for joint custody
4. Restrictions on joint custody if one parent seriously endangered the child's physical, mental, moral or emotional health
5. Custody Factors Included

**Indiana: Ind. Code § 31-17-2-8, § 31-17-2-8.3, § 31-17-2-13**

1. Best interest Standard
2. No preference
3. No rebuttable presumption for joint custody
4. No rebuttable presumption against joint custody
5. Custody Factors included

**Iowa: Iowa Code § 598.41**

1. Best interest Standard
2. Prefers joint custody for maximum continuing contact between the child and both parents after separation or divorce, encouraging parents to share in the rights and responsibilities of raising their child.
3. No rebuttable presumption for joint custody
4. Rebuttable presumption against joint custody if a history of domestic abuse exists
5. Custody Factors included

**Kansas: K.S.A. §§ 23-3201 - 23-3206**

1. Best Interest Standard
2. Preference for Joint Legal Custody (K.S.A. § 23-3206)
3. No rebuttable presumption for joint custody
4. Rebuttable presumption against awarding custody to parent living with convicted sex offender or child abuser
5. Custody Factors included

**Kentucky: § 403-270**

1. Best Interest Standard
2. Preference for Joint Custody
3. Rebuttable Presumption of Joint Custody with Equal Parenting Time;
4. No joint custody for parent who committed DV
5. Custody Factors included

**Louisiana: Civil Code 131-132; R.S. §9:364**

1. Best Interest Standard
2. Preference for joint custody
3. No rebuttable presumption for joint custody
4. Rebuttable presumption against custody for parent found to have engaged in DV or sexual abuse
5. Custody Factors included

**Maine: 19-A M.R.S. § 1653**

1. Best Interest Standard
2. Equal preference for parents; if parties agree to joint custody, court should award joint custody unless against best interest of the child
3. No rebuttable presumption for joint custody
4. Rebuttable presumption against custody for parent who has committed DV
5. Custody Factors included

**Maryland: Maryland Family Law Code § 9-101**

1. Best Interest Standard
2. "The parents are the joint natural guardians of their minor child" 5-203
3. No rebuttable presumption for joint custody
4. Restrictions on custody to parent who committed abuse of parent or child
5. No Custody Factors included.

**Massachusetts: Massachusetts General Laws Chapter 208, Section 31, 31A**

1. Best Interest Standard
2. No preference
3. No rebuttable presumption of joint custody
4. Rebuttable presumption against custody for a parent who has been found to have committed DV or child abuse
5. No Custody Factors included

**Michigan: Michigan Compiled Laws (MCL) § 722 et seq**

1. Best Interest Standard
2. It is presumed to be in the best interests of a child for the child to have a strong relationship with both of his or her parents
3. No rebuttable presumption of joint custody
4. No rebuttable presumption against custody
5. Custody factors included

**Minnesota: Sec. 518.17 et seq.**

1. Best Interest Standard
2. No preference
3. Rebuttable presumption for joint custody and that a child must receive a minimum of at least 25 percent of the parenting time with each parent.
4. Rebuttable presumption against custody for parent who committed DV
5. Custody factors included

**Mississippi: Mississippi Code Section 93-5-24**

1. Best Interest Standard
2. Preference for joint custody if parties agree to joint custody
3. No rebuttable presumption of joint custody
4. Rebuttable presumption against custody to a parent found to have committed family violence.
5. No Custody Factors included

**Missouri: MO ST § 452.375**

1. Best Interest Standard
2. Preference for both parents having frequent and meaningful contact with children
3. Rebuttable presumption in favor of joint custody with equal parenting time.
4. Rebuttable presumption against custody for parent with pattern of DV
5. Custody factors included

**Montana: § 40-4-212, Montana Code Annotated (MCA)**

1. Best Interest Standard
2. Preference for joint custody with frequent and continuing contact with both parents
3. No rebuttable presumption for joint custody
4. No rebuttable presumption against joint custody
5. Custody factors included

**Nebraska: Nebraska Revised Statutes § 42-364**

1. Best Interest Standard
2. Preference for joint custody is awarded if parties agree
3. No rebuttable presumption for joint custody.
4. No rebuttable presumption against custody
5. Custody factors included

**Nevada: NRS 125C.002 - NRS 125C.0035**

1. Best Interest Standard
2. Preference for joint custody arrangements
3. Rebuttable presumption for joint custody if parties agree
4. Rebuttable presumption against custody for parent who has committed DV
5. Custody Factors included

**New Hampshire: RSA § 461-A:2 et seq**

1. Best interest standard
2. Preference of joint custody with equal parenting time.
3. No rebuttable presumption for joint custody
4. No rebuttable presumption against custody
5. Custody Factors included

**New Jersey: N.J. Stat. Ann. § 9:2-4**

1. Best interest Standard
2. Preference for frequent involvement of both parents.
3. No rebuttable presumption of joint custody
4. No award of custody to a parent convicted of sexual assault.
5. Custody Factors included

**New Mexico: Section 40-4-9.1**

1. Best Interest standard
2. No preference
3. Presumption in favor of joint custody
4. No rebuttable presumption against custody
5. Custody Factors included

**New York: New York Domestic Relations Law (DRL) § 240**

1. Best Interest Standard
2. No preference
3. No rebuttable presumption for joint custody
4. Rebuttable presumption against custody for parent convicted of sexual assault
5. No Custody Factors included

**North Carolina: North Carolina General Statutes § 50-13.2**

1. Best Interest Standard
2. No preference
3. No rebuttable presumption for joint custody
4. No rebuttable presumption against custody

5. No Custody Factors included

**North Dakota: North Dakota Century Code § 14-09-06.2**

1. Best Interest Standard
2. No custody preference, best interest of the child
3. No rebuttable presumption of joint custody
4. Rebuttable presumption against custody to a parent who has committed DV
5. Custody Factors included

**Ohio: ORC § 3109.04**

1. Best Interest Standard
2. No preference
3. No rebuttable presumption for joint custody.
4. No rebuttable presumption against joint custody. Must consider abuse, domestic violence or certain other crimes as fact against naming that parent as the residential custodian but may if determine in best interests.
5. Custody Factors included

**Oklahoma: 43 O.S. § 112**

1. Best Interest Standard
2. When in best interests of the child, assure frequent and continuing contact with both parents and encourage parents to share the rights and responsibilities of child rearing
3. No rebuttable presumption for joint custody
4. No rebuttable presumption against joint custody
5. No Custody Factors included

**Oregon: 107.137**

1. Best Interest Standard
2. No preference
3. No rebuttable presumption for joint custody
4. Rebuttable presumptions against custody to parent who committed abuse or rape
5. Custody Factors included

**Pennsylvania: 23 Pa.C.S. § 5328**

1. Best Interest Standard
2. Give weighted consideration to the factors that affect safety of child
3. No rebuttable presumption for joint custody



4. No custody for a parent convicted of murder or to a parent convicted of certain sexual offenses
5. Custody Factors included

**Rhode Island: R.I. Gen. Laws § 15-5-16**

1. Best Interest Standard
2. Supports continuous contact between parents and child
3. No rebuttable presumption for joint custody
4. Restriction on custody for parent who has abused child
5. No Custody Factors included

**South Carolina: South Carolina Code of Laws § 63-15-220**

1. Best Interest Standard
2. No preference
3. No rebuttable presumption for joint custody
4. No rebuttable presumption against joint custody
5. Custody factors included

**South Dakota:**

1. Best Interest Standard
2. No preference
3. No rebuttable presumption for joint custody (unless parents agree)
4. Rebuttable presumption against custody to parent with history or conviction of domestic violence or conviction of a parent for death of the other parent
5. Custody Factors included (on request for joint custody)

**Tennessee:**

1. Best Interest Standard
2. Taking into consideration the best interests, a custody arrangement that permits both parents to enjoy the maximum participation possible in the life of the child consistent with the factors
3. No presumption for joint custody
4. Rebuttable presumption against custody for a parent committed DV
5. Custody Factors included.

**Texas:**

1. Best Interests Standard
2. Joint Managing Conservatorship
3. Presumption of Joint Managing Conservatorship. There is a standard possession order for physical custody

4. No rebuttable presumption against joint custody
5. Custody Factors included

**Utah:**

1. Best Interests Standard
2. Frequent and continuing contact between both parents and child after separation, promotes shared responsibilities
3. Rebuttable presumption for joint custody except in case where there is abuse, domestic violence, special needs of the child or a parent – MAY result in equal or nearly equal periods of physical custody – court not prohibited from specifying one parent as the primary caretaker
4. No rebuttable presumption against joint custody
5. Custody factors included.

**Vermont: 15 V.S.A. § 665**

1. Best Interest Standard
2. No preference
3. No rebuttable presumption for joint custody
4. No custody for parent convicted on rape
5. Custody Factors included

**Virginia:**

1. Best Interest Standard
2. Assure minor children of frequent and continuing contact with both parents, and when appropriate, encourage parents to share in the responsibilities of rearing their children.
3. No rebuttable presumption for joint custody
4. No rebuttable presumption against joint custody
5. Custody Factors included

**Washington: RCW § 26.09.002**

1. Best Interest Standard
2. Encourage each parent to maintain a loving, stable, and nurturing relationship with the child, consistent with the child's developmental level and the family's social and economic circumstances
3. No rebuttable presumption for joint custody
4. Rebuttable presumption against custody for parent who committed abuse of a child, history of domestic violence, prior abandonment
5. Custody Factors included

**West Virginia: W.Va. Code § 48-9-102**

1. Best Interests Standard
2. Joint Custody
3. Rebuttable presumption for joint custody and “that equal (50-50) custodial allocation is in the best interest of the child.”
4. Rebuttable presumption against custody for parent in case of abuse of abuse, domestic violence or child conceived as result of sexual assault.
5. Custody Factors included

**Wisconsin:**

1. Best Interest Standard
2. Joint legal
3. Presumption for joint legal custody (not physical)
4. Presumption against joint legal in case of abuse or domestic violence
5. Custody Factors included

**Wyoming: Wyo. Stat. § 20-2-201**

1. Best Interest Standard
2. No preference – other than both parties involved
3. No rebuttable presumption for joint custody
4. Restrictions on custody for parent who committed spousal abuse or child abuse
5. Custody Factors included