

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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HOUSE BILL 735

Short Title: Presumption of Shared Parenting. (Public)

Sponsors: Representatives Pierce, White, and Riddell (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 3, if favorable, Rules, Calendar, and Operations of the House

April 19, 2023

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING A PRESUMPTION OF JOINT CUSTODY AND SHARED
3 PARENTING.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 50-13.01 reads as rewritten:

6 "**§ 50-13.01. Purposes.**

7 It is the policy of the State of North Carolina to:

8 ...

9 (6) Encourage parental agreements that establish joint custody and shared
10 parenting arrangements under which the child spends as close as possible to
11 an equal amount of time with each parent."

12 **SECTION 2.** G.S. 50-13.1 reads as rewritten:

13 "**§ 50-13.1. Action or proceeding for custody of minor child.**

14 ...

15 (b) Whenever it appears to the court, from the pleadings or otherwise, that an action
16 involves a contested issue as to the custody or visitation of a minor child, the matter, where there
17 is a program established pursuant to G.S. 7A-494, shall be set for mediation of the unresolved
18 issues as to custody and visitation before or concurrent with the setting of the matter for hearing
19 unless the court waives mediation pursuant to subsection (c). Issues that arise in motions for
20 modifications as well as in other pleadings shall be set for mediation unless the court waives
21 mediation pursuant to subsection (c) of this section. Custody or visitation issues that arise in
22 motions for contempt or motions to show cause may be set for mediation. Alimony, child support,
23 and other economic issues may not be referred for mediation pursuant to this section. The
24 purposes of mediation under this section include the pursuit of the following goals:

25 (1) To reduce any acrimony that exists between the parties to a dispute involving
26 custody or visitation of a minor child;

27 (2) The development of custody and visitation agreements that are in the child's
28 best ~~interest~~; interest and equalize to the greatest extent possible the amount of
29 time the child spends with each parent, giving due consideration to the
30 relevant shared parenting factors of G.S. 50-13.2(a1);

31"

32 **SECTION 3.** G.S. 50-13.2 reads as rewritten:

33 "**§ 50-13.2. Who entitled to custody; presumption of shared parenting; terms of custody;**
34 **visitation rights of grandparents; taking child out of State; consideration of**
35 **parent's military service.**



1 (a) An order for custody of a minor child entered pursuant to this section shall award the
2 custody of such child to such person, agency, organization or institution as will best promote the
3 interest and welfare of the child. In making the determination, the court shall consider all relevant
4 factors including acts of domestic violence between the parties, the safety of the child, and the
5 safety of either party from domestic violence by the other party. An order for custody must
6 include written findings of fact that reflect the consideration of each of these factors and that
7 support the determination of what is in the best interest of the child. Between the parents, whether
8 natural or adoptive, no presumption shall apply as to who will better promote the interest and
9 welfare of the child. Joint custody to the parents shall be considered upon the request of either
10 parent.

11 (a1) There exists a rebuttable presumption that joint custody and shared parenting is in the
12 best interest of the child. For purposes of this section, "shared parenting" means the child spends
13 as close as possible to an equal amount of time with each parent. In determining the terms of a
14 shared parenting schedule, the court shall consider all of the following relevant factors:

- 15 (1) The wishes of the child's parent or parents as to his or her custody.
- 16 (2) The wishes of the child as to his or her custody, with due consideration given
17 to the influence a parent or other custodian may have over the child's wishes.
- 18 (3) The interaction and interrelationship of the child with his or her parent or
19 parents, his or her siblings, and any other person who may significantly affect
20 the child's best interests.
- 21 (4) The motivations of the adults participating in the custody proceeding.
- 22 (5) The child's adjustment and continuing proximity to his or her home, school,
23 and community.
- 24 (6) The physical and mental health of all individuals involved.
- 25 (7) A finding by the court that an act of domestic violence has been committed by
26 one of the parties against a child of the party or any other parties. The court
27 shall further determine the extent to which the domestic violence and abuse
28 has affected the child and the child's relationship to each party, with
29 consideration given to efforts made by a party toward completion of any
30 domestic violence treatment, counseling, or program.
- 31 (8) The extent to which the child has been cared for, nurtured, and financially
32 supported by any party.
- 33 (9) The intent of the parent or parents in placing a child with another person,
34 agency, organization, or institution.
- 35 (10) The circumstances under which a child was placed or allowed to remain with
36 another person, agency, organization, or institution, including whether a
37 parent seeking custody was previously prevented from doing so as a result of
38 an act of domestic violence, or whether the child was placed with another
39 person, agency, organization, or institution to allow the parent now seeking
40 custody to seek employment, work, or attend school.
- 41 (11) The likelihood that a party will allow the child frequent, meaningful, and
42 continuing contact with the other parent, unless the court finds that a
43 continuing relationship with the other parent will endanger the health and
44 safety of the child.

45 (a2) The presumption that joint custody and shared parenting is in the best interest of the
46 child may be rebutted if one or more of the following conditions exist:

- 47 (1) The court, after consideration of relevant factors under subsection (a1) of this
48 section, finds by clear and convincing evidence that shared parenting and joint
49 custody is not in the best interest of the child.
- 50 (2) The parties have reached an agreement on all issues related to custody of the
51 child.

1 (3) One of the parties does not request sole, primary, or joint custody.

2 (b) An order for custody of a minor child may grant joint custody to the parents, exclusive
3 custody to one person, agency, organization, or institution, or grant custody to two or more
4 persons, agencies, organizations, or ~~institutions.~~institutions in accordance with subsections (a)
5 and (a1) of this section. Any order for custody shall include such terms, including visitation, as
6 will best promote the interest and welfare of the child. If the court finds that domestic violence
7 has occurred, the court shall enter such orders that best protect the children and party who were
8 the victims of domestic violence, in accordance with the provisions of G.S. 50B-3(a1)(1), (2),
9 and (3). If a party is absent or relocates with or without the children because of an act of domestic
10 violence, the absence or relocation shall not be a factor that weighs against the party in
11 determining custody or visitation. Absent an order of the court to the contrary, each parent shall
12 have equal access to the records of the minor child involving the health, education, and welfare
13 of the child.

14 "

15 **SECTION 4.** This act is effective when it becomes law.