

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: S1/28/21 H3/22/21

A Bill

SENATE BILL 18

By: Senators A. Clark, J. English, M. Johnson, Rapert, B. Ballinger, D. Sullivan, Irvin
By: Representatives Gazaway, Lowery, *Brown, Cloud, C. Cooper, Cozart, Crawford, M. Gray, Haak, Hollowell, Magie, McNair, S. Berry, Christiansen, M. Davis*

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING CHILD CUSTODY AND VISITATION; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING CHILD CUSTODY AND VISITATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 9-13-101(a)(1)(A), concerning the award of custody, is amended to add an additional subdivision to read as follows:

(iv)(a) In an action concerning an original child custody determination in a divorce or paternity matter, there is a rebuttable presumption that joint custody is in the best interest of the child.

(b) The presumption that joint custody is in the best interest of the child may be rebutted:

(1) If the court finds by clear and convincing evidence that joint custody is not in the best interest of the child;

(2) If the parties have reached an agreement on all issues related to custody of the child;

(3) If one (1) of the parties does not request sole, primary, or joint custody; or

(4) If a rebuttable presumption described in subsection (c) or subsection (d) of this section is established



by the evidence.

(c) The circuit court may enter an order to reduce areas of conflict in a manner determined appropriate by the court.

SECTION 2. Arkansas Code § 9-13-101(b)(1)(A)(ii) and (iii), concerning the award of custody, are amended to read as follows:

(ii) To this effect, the circuit court ~~may~~ shall consider awarding joint custody of a child to the parents in making an order for custody.

(iii) If, at any time, the circuit court finds by a preponderance of the evidence that one (1) parent demonstrates a pattern of willfully creating conflict in an attempt to disrupt a current or pending joint-custody arrangement and the circuit court is unable to enter an order that will reduce areas of conflict caused by the disruptive parent, the circuit court may deem such behavior as a material change of circumstances and may change a joint custody order to an order of primary custody to the nondisruptive parent.

SECTION 3. Arkansas Code § 9-13-101(b)(1)(A), concerning the award of custody, is amended to add additional subdivisions to read as follows:

(vi) A court shall consider the best interest of the child when making a child custody determination.

(vii)(a) A parent who is not granted sole, primary, or joint custody of his or her child is entitled to reasonable parenting time with the child unless the court finds after a hearing that parenting time between the parent and the child would seriously endanger the physical, mental, or emotional health of the child.

(b) At the request of a party, a court shall issue a written order that:

(1) Is specific as to the frequency, timing, duration, condition, and method of scheduling parenting time with a parent who is not granted sole, primary, or joint custody of his or her child; and

(2) Takes into consideration the developmental age of the child.

SECTION 4. Arkansas Code § 9-13-101(b), concerning the award of custody, is amended to add an additional subdivision to read as follows:

(3) After a hearing on the merits of a child custody action, if a court determines that the presumption in subdivision (a)(1)(A)(iv)(a) of this section is rebutted, the court shall enter a written order that includes the following:

(A) Facts, findings, and conclusions of law concerning the basis for the court's determination; and

(B) A parenting time schedule that:

(i) Maximizes the amount of time that each parent has with the child; and

(ii) Is consistent with the best interest of the child.

/s/A. Clark