

518.17 CUSTODY AND SUPPORT OF CHILDREN ON JUDGMENT.

Subdivision 1. **The best interests of the child.** (a) "The best interests of the child" means all relevant factors to be considered and evaluated by the court including:

- (1) the wishes of the child's parent or parents as to custody;
- (2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;
- (3) the child's primary caretaker;
- (4) the intimacy of the relationship between each parent and the child;
- (5) the interaction and interrelationship of the child with a parent or parents, siblings, and any other person who may significantly affect the child's best interests;
- (6) the child's adjustment to home, school, and community;
- (7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (8) the permanence, as a family unit, of the existing or proposed custodial home;
- (9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363A.03, of a proposed custodian or the child shall not be determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;
- (10) the capacity and disposition of the parties to give the child love, affection, and guidance, and to continue educating and raising the child in the child's culture and religion or creed, if any;
- (11) the child's cultural background;
- (12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents or between a parent and another individual, whether or not the individual alleged to have committed domestic abuse is or ever was a family or household member of the parent; and
- (13) except in cases in which a finding of domestic abuse as defined in section 518B.01 has been made, the disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the child.

The court may not use one factor to the exclusion of all others. The primary caretaker factor may not be used as a presumption in determining the best interests of the child. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

(b) The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child.

Subd. 1a. **Evidence of false allegations of child abuse.** The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.

Subd. 2. **Factors when joint custody is sought.** (a) There is no presumption for or against joint physical custody, except when domestic abuse, as defined in section 518B.01, has occurred between the parents.

(b) In addition to the factors listed in subdivision 1, where either joint legal or joint physical custody is contemplated or sought, the court shall consider the following relevant factors:

(1) the ability of parents to cooperate in the rearing of their children;

(2) methods for resolving disputes regarding any major decision concerning the life of the child, and the parents' willingness to use those methods;

(3) whether it would be detrimental to the child if one parent were to have sole authority over the child's upbringing; and

(4) whether domestic abuse, as defined in section 518B.01, has occurred between the parents.

The court shall not use one of the factors to be considered to the exclusion of all of the other factors. The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. However, the court shall use a rebuttable presumption that joint legal or physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents. Disagreement alone over whether to grant sole or joint custody does not constitute an inability of parents to cooperate in the rearing of their children as referenced in paragraph (b), clause (1).

(c) If the parties disagree as to whether the court should award joint or sole legal or physical custody, the court shall make detailed factual findings on each of the factors in this subdivision and explain how its findings on the factors led to its determination as to whether joint custody or sole custody would be in the best interests of the child.

Subd. 3. **Custody order.** (a) Upon adjudging the nullity of a marriage, or in a dissolution or separation proceeding, or in a child custody proceeding, the court shall make such further order as it deems just and proper concerning:

(1) the legal custody of the minor children of the parties which shall be sole or joint;

(2) their physical custody and residence; and

(3) their support. In determining custody, the court shall consider the best interests of each child and shall not prefer one parent over the other solely on the basis of the sex of the parent.

(b) The court shall grant the following rights to each of the parties, unless specific findings are made under section 518.68, subdivision 1. Each party has the following rights:

(1) right of access to, and to receive copies of, school, medical, dental, religious training, police reports, and other important records and information about the minor children;

(2) right of access to information regarding health or dental insurance available to the minor children;

(3) right to be informed by the other party as to the name and address of the school of attendance of the minor children;

(4) right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent-teacher conferences. The school is not required to hold a separate conference for each party;

(5) right to be notified by the other party of an accident or serious illness of a minor child, including the name of the health care provider and the place of treatment;

(6) right to be notified by the other party if the minor child is the victim of an alleged crime, including the name of the investigating law enforcement officer or agency. There is no duty to notify if the party to be notified is the alleged perpetrator; and

(7) right to reasonable access and telephone contact with the minor children.

(c) The court may waive any of the rights under this section if it finds it is necessary to protect the welfare of a party or child.

(d) If a court order or law prohibits contact by a party, notification required under paragraph (b), clauses (1), (2), (3), (5), and (6), shall not be by direct communication of the parties. Third-party communication shall be limited to the specific purposes delineated in this subdivision. Nothing in this subdivision shall modify, suspend, revoke, or terminate a court order or law that prohibits contact by a party.

(e) If one of the parties is a program participant under chapter 5B, the other party shall send all information and notifications required under paragraph (b), clauses (1), (2), (3), (5), and (6), to the participant's designated address. The program participant is exempted from the requirements of paragraph (b).

(f) Failure to notify or inform a party of rights under paragraph (b) does not form a basis for modification under section 518.18, paragraph (d), clause (iv), unless other grounds are alleged which would support a modification.

Subd. 4. [Repealed, 1986 c 406 s 9]

Subd. 5. [Repealed, 1986 c 406 s 9]

Subd. 6. **Departure from guidelines based on joint custody.** An award of joint legal custody is not a reason for departure from the guidelines in section 518A.35.

History: (8596) *RL s 3585; 1969 c 1030 s 1; 1971 c 173 s 1; 1974 c 107 s 14; 1974 c 330 s 2; 1978 c 772 s 39; 1979 c 259 s 17; 1981 c 349 s 5; 1983 c 308 s 15; 1984 c 547 s 16; 1984 c 655 art 1 s 73; 1986 c 406 s 1,2; 1986 c 444; 1987 c 106 s 1; 1988 c 662 s 1; 1988 c 668 s 12; 1989 c 248 s 2,3; 1990 c 574 s 13,14; 1991 c 271 s 4; 1992 c 557 s 8; 1993 c 322 s 7; 1994 c 630 art 12 s 4; 1997 c 203 art 9 s 16; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 2012 c 153 s 1; 2014 c 197 s 1*