

Children's Equal Access Act

KIDS WIN WITH SHARED PARENTING

Existing law specifies that it is the policy of this state that parents who are divorced or separated have frequent and continuing contact with their children. Currently, no definition exists for “frequent and continuing contact” which results in an unequal application of law for parents and children across the State. Child custody determinations are based more on which judge hears the case rather than the actual circumstances of the case.

In 2015 and 2016, the AOC administered surveys. The results of those surveys indicate that a biased and unbalanced practice still exists throughout the State of Alabama. This practice creates a public health crisis for approximately 40,000 children each year by placing children at unnecessary risk and leaves scars which follows them into adulthood. However, more than 40 studies show and 112 experts agree that “shared parenting should be the norm for parenting plans for children of all ages.” There is no pathway for the courts to use evidence-based guidelines to meet the needs of each unique case, which often leads to a “one size fits all” standardized visitation schedule.

The Children's Equal Access Act aims to maximize a child's time with both fit parents during a divorce or separation.

Benefits of this proposed legislation include:

- Reduction of negative social impact (ACE Study) – reduction in juvenile detention and imprisonment, teen pregnancy, suicide, school dropout, drug use, and sex trafficking
- Reduction of court dockets
- Reduction of financial burden on taxpayers and increase in Alabama revenue
- Reduction in parents requesting time off for court appearances
- Negates the “winner vs. loser” mentality that is part of the majority of child custody cases
- **Provides uniform starting point guidelines** for child custody determinations consistent with social science data and research regarding child lifetime success and best outcomes
- Incorporates the ALI bill, recommendations from the Bar Association's Family Law Task Force and Alabama Supreme Court caselaw, along with the social science data
- Specifies that there is a **rebuttable presumption** that joint custody, equal or approximately equal time with both parents, is in the best interest of the child
- **Establishes 16 factors to be considered** by the courts when determining any custody arrangement
- Allows the judge to maintain discretion to deviate from the presumption only by evidence
- Codifies the Supreme Court of Alabama caselaw recommendation by requiring the **court to document their rationale** as to why joint custody is not in the best interest of the child (Current law requires parole boards to clearly articulate its reasons for approval or denial of parole for prisoners.)
- **Requires the parties to submit a parenting plan** in all cases. Parenting plans provide the parties with a roadmap concerning each parent's expectations and responsibilities.
- Provides remedies to a party, when a parent, without proper cause, violates the time-sharing schedule in a parenting plan, including makeup parenting time and reimbursement for costs and attorney fees

*This Act does not change the following: §30-3-131, Code of Alabama, 1975, provides: “In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that domestic or family violence has occurred raises a **rebuttable presumption** by the court that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of domestic or family violence.