

JOINT CUSTODY PRESUMPTIONS AND DOMESTIC VIOLENCE EXCEPTIONS

Joint custody statute	Joint custody presumed or favored?	Relevant Statutes	Statutory Language – Joint Custody Presumption & Consideration of Domestic Violence	Summary
Alabama	Yes	<p>Ala. Code § 30-3-150 (2014)</p> <p>Ala. Code § 30-3-152 (2014)</p> <p>Ala. Code § 30-3-131 (2014)</p> <p>Ala. Code § 30-3-133 (2014)</p>	<p>§ 30-3-150. Policy of state. Joint Custody. -- It is the policy of this state to assure that minor children have frequent and continuing contact with parents who have shown the ability to act in the best interest of their children and to encourage parents to share in the rights and responsibilities of rearing their children after the parents have separated or dissolved their marriage. Joint custody does not necessarily mean equal physical custody.</p> <p>§ 30-3-152. Considerations by courts; factors considered. (a) The court shall in every case consider joint custody but may award any form of custody which is determined to be in the best interest of the child. In determining whether joint custody is in the best interest of the child, the court shall consider the same factors considered in awarding sole legal and physical custody and all of the following factors: ... (4) Any history of or potential for child abuse, spouse abuse, or kidnapping.</p> <p>§ 30-3-131. Presumption against perpetrator of violence. 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. Notwithstanding the provisions regarding rebuttable presumption, the judge must also take into account what, if any, impact the domestic violence had on the child.</p> <p>§ 30-3-133. Presumption in favor of non-violent parent. 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 in the best interest of the child to reside with the parent who is not a perpetrator of domestic or family violence in the location of that parent's choice, within or outside the state.</p>	<p>There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.</p>
Alaska	No	<p>Alaska Stat. § 25.24.150 (2014)</p>	<p>§ 25.24.150. Judgments for custody</p> <p>(c) The court shall determine custody in accordance with the best interests of the child under AS 25.20.060 -- 25.20.130. In determining the best interests of the child the court shall consider ... (7) any evidence of domestic violence, child abuse, or child neglect in the proposed custodial household or a history of violence between the parents...</p> <p>(g) There is a rebuttable presumption that a parent who has a history of perpetrating domestic violence against the other parent, a child, or a domestic living partner may not be awarded sole legal custody, sole physical custody, joint legal custody, or joint physical custody of a child.</p> <p>(h) A parent has a history of perpetrating domestic violence under (g) of this section if the court finds that, during one incident of domestic violence, the parent caused serious physical injury or the court finds that the parent has engaged in more than one incident of domestic violence. The presumption may be overcome by a preponderance of the evidence that the perpetrating parent has successfully completed an intervention program for batterers, where reasonably available, that the parent does not engage in substance abuse, and that the best interests of the child require that parent's participation as a custodial parent because the other parent is absent, suffers from a diagnosed mental illness that affects parenting abilities, or engages in substance abuse that affects parenting abilities, or because of other circumstances that affect the best interests of the child. ...</p> <p>(j) If the court finds that a parent has a history of perpetrating domestic violence under (g) of this section, the court shall allow only supervised visitation by that parent with the child, conditioned on that parent's participating in and successfully completing an intervention program for batterers, and a parenting education program, where reasonably available, except that the court may allow unsupervised visitation if it is shown by a preponderance of the evidence that the violent parent has completed a substance abuse treatment program if the court considers it appropriate, is not abusing alcohol or psychoactive drugs, does not pose a danger of mental or physical harm to the child, and unsupervised visitation is in the child's best interests.</p>	<p>There is a rebuttable presumption that a domestic violence offender will not be awarded custody.</p>

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Arizona	Yes	<p>Ariz. Rev. Stat. Ann. § 25-403.01 (2013)</p> <p>Ariz. Rev. Stat. Ann. § 25-403.03 (2014)</p>	<p>§ 25-403.01. Sole and joint custody</p> <p>A. In awarding child custody, the court may order sole custody or joint custody. This section does not create a presumption in favor of one custody arrangement over another.</p> <p>§ 25-403.03. Domestic violence and child abuse</p> <p>A. Notwithstanding subsection D of this section, joint custody shall not be awarded if the court makes a finding of the existence of significant domestic violence pursuant to section 13-3601 or if the court finds by a preponderance of the evidence that there has been a significant history of domestic violence.</p> <p>B. The court shall consider evidence of domestic violence as being contrary to the best interests of the child. The court shall consider the safety and well-being of the child and of the victim of the act of domestic violence to be of primary importance. The court shall consider a perpetrator's history of causing or threatening to cause physical harm to another person.</p> <p>D. If the court determines that a parent who is seeking custody has committed an act of domestic violence against the other parent, there is a rebuttable presumption that an award of custody to the parent who committed the act of domestic violence is contrary to the child's best interests. This presumption does not apply if both parents have committed an act of domestic violence. ...</p> <p>E. To determine if the parent has rebutted the presumption the court shall consider all of the following:</p> <ol style="list-style-type: none"> 1. Whether the parent has demonstrated that being awarded sole custody or joint physical or legal custody is in the child's best interests. 2. Whether the parent has successfully completed a batterer's prevention program. 3. Whether the parent has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate. 4. Whether the parent has successfully completed a parenting class, if the court determines that a parenting class is appropriate. 5. If the parent is on probation, parole or community supervision, whether the parent is restrained by a protective order that was granted after a hearing. 6. Whether the parent has committed any further acts of domestic violence. 	<p>There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.</p>
Arkansas	No	<p>Ark. Code Ann. § 9-13-101 (2014)</p>	<p>9-13-101. Award of custody.</p> <p>(a) (1) (A) (i) In an action for divorce, the award of custody of a child of the marriage shall be made without regard to the sex of a parent but solely in accordance with the welfare and best interest of the child. ...</p> <p>b) (1) (A) (i) When in the best interests of a child, custody shall be awarded in such a way so as to assure the frequent and continuing contact of the child with both parents.</p> <p>(ii) To this effect, the circuit court may consider awarding joint custody of a child to the parents in making an order for custody. ...</p> <p>(c) (1) If a party to an action concerning custody of or a right to visitation with a child has committed an act of domestic violence against the party making the allegation or a family or household member of either party and such allegations are proven by a preponderance of the evidence, the circuit court must consider the effect of such domestic violence upon the best interests of the child, whether or not the child was physically injured or personally witnessed the abuse, together with such facts and circumstances as the circuit court deems relevant in making a direction pursuant to this section.</p> <p>(2) There is a rebuttable presumption that it is not in the best interest of the child to be placed in the custody of an abusive parent in cases in which there is a finding by a preponderance of the evidence that the parent has engaged in a pattern of domestic abuse.</p>	<p>There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.</p>

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California	No	<p>Cal Fam Code § 3040 (2014)</p> <p>Cal Fam Code § 3011 (2014)</p> <p>Cal Fam Code § 3044 (2014)</p>	<p>§ 3040. Order of preference in granting custody</p> <p>(a) Custody should be granted in the following order of preference according to the best interest of the child as provided in Sections 3011 and 3020:</p> <p>(1) To both parents jointly pursuant to Chapter 4 (commencing with Section 3080) or to either parent. In making an order granting custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child frequent and continuing contact with the noncustodial parent, consistent with Section 3011 and 3020, and shall not prefer a parent as custodian because of that parent's sex. The court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order. ... (b) This section establishes neither a preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.</p> <p>§ 3011. Factors considered in determining best interest of child</p> <p>In making a determination of the best interest of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds relevant, consider all of the following: ... (b) Any history of abuse by one parent or any other person seeking custody against any of the following: (1) Any child to whom he or she is related by blood or affinity or with whom he or she has had a caretaking relationship, no matter how temporary. (2) The other parent. (3) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship. ...</p> <p>(e) (1) Where allegations about a parent pursuant to subdivision (b) or (d) have been brought to the attention of the court in the current proceeding, and the court makes an order for sole or joint custody to that parent, the court shall state its reasons in writing or on the record. In these circumstances, the court shall ensure that any order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (b) of Section 6323.</p> <p>§ 3044. Rebuttable presumption from showing that person seeking custody has perpetrated domestic violence; Factors; Finding; Evidence; Copy of section</p> <p>(a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence against the other party seeking custody of the child or against the child or the child's siblings within the previous five years, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Section 3011. This presumption may only be rebutted by a preponderance of the evidence.</p> <p>(b) In determining whether the presumption set forth in subdivision (a) has been overcome, the court shall consider all of the following factors: (1) Whether the perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part. (2) Whether the perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code. (3) Whether the perpetrator has successfully completed a program of alcohol or drug abuse counseling if the court determines that counseling is appropriate. (4) Whether the perpetrator has successfully completed a parenting class if the court determines the class to be appropriate. (5) Whether the perpetrator is on probation or parole, and whether he or she has complied with the terms and conditions of probation or parole. (6) Whether the perpetrator is restrained by a protective order or restraining order, and whether he or she has complied with its terms and conditions. (7) Whether the perpetrator of domestic violence has committed any further acts of domestic violence.</p>	<p>There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.</p>

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Colorado	Yes	Colo. Rev. Stat. § 14-10-124 (2014)	<p>14-10-124. Best interests of child</p> <p>(1) Legislative declaration. The general assembly finds and declares that it is in the best interest of all parties to encourage frequent and continuing contact between each parent and the minor children of the marriage after the parents have separated or dissolved their marriage. In order to effectuate this goal, the general assembly urges parents to share the rights and responsibilities of child-rearing and to encourage the love, affection, and contact between the children and the parents. . . .</p> <p>(1.5) Allocation of parental responsibilities. The court shall determine the allocation of parental responsibilities, including parenting time and decision-making responsibilities, in accordance with the best interests of the child giving paramount consideration to the physical, mental, and emotional conditions and needs of the child as follows:</p> <p>(a) Determination of parenting time. The court, upon the motion of either party or upon its own motion, may make provisions for parenting time that the court finds are in the child's best interests unless the court finds, after a hearing, that parenting time by the party would endanger the child's physical health or significantly impair the child's emotional development. In determining the best interests of the child for purposes of parenting time, the court shall consider all relevant factors, including: . . . (X) Whether one of the parties has been a perpetrator of domestic violence, which factor shall be supported by a preponderance of the evidence; . . .</p> <p>(b) Allocation of decision-making responsibility. The court, upon the motion of either party or its own motion, shall allocate the decision-making responsibilities between the parties based upon the best interests of the child. In determining decision-making responsibility, the court may allocate the decision-making responsibility with respect to each issue affecting the child mutually between both parties or individually to one or the other party or any combination thereof.</p>	The effect of domestic violence on the child is considered as a factor in determining the best interests of the child.
Connecticut	Yes	Conn. Gen. Stat. § 46b-56a (2014) Conn. Gen. Stat. § 46b-56 (2014)	<p>Sec. 46b-56a. Joint custody. Definition. Presumption. Conciliation. Parental responsibility plan. Modification of orders.</p> <p>(a) For the purposes of this section, "joint custody" means an order awarding legal custody of the minor child to both parents, providing for joint decision-making by the parents and providing that physical custody shall be shared by the parents in such a way as to assure the child of continuing contact with both parents. The court may award joint legal custody without awarding joint physical custody where the parents have agreed to merely joint legal custody.</p> <p>(b) There shall be a presumption, affecting the burden of proof, that joint custody is in the best interests of a minor child where the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage. If the court declines to enter an order awarding joint custody pursuant to this subsection, the court shall state in its decision the reasons for denial of an award of joint custody.</p> <p>Sec. 46b-56. (Formerly Sec. 46-42). Orders re custody, care, education, visitation and support of children. Best interests of the child. Access to records of minor child by noncustodial parent. Orders re therapy, counseling and drug or alcohol screening.</p> <p>(c) In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so may consider, but shall not be limited to, one or more of the following factors: . . . (14) the effect on the child of the actions of an abuser, if any domestic violence has occurred between the parents or between a parent and another individual or the child.</p>	The effect of domestic violence on the child is considered as a factor in determining the best interests of the child.
Delaware	No	Del. Code Ann. 13 § 722 (2014) Del. Code Ann. 13 § 705A (2014)	<p>§ 722. Best interests of child</p> <p>(a) The Court shall determine the legal custody and residential arrangements for a child in accordance with the best interests of the child. In determining the best interests of the child, the Court shall consider all relevant factors including: . . . (7) Evidence of domestic violence as provided for in Chapter 7A of this title.</p> <p>§ 705A. Rebuttable presumption against custody or residence of minor child to perpetrator of domestic violence</p> <p>(a) Notwithstanding other provisions of this title, there shall be a rebuttable presumption that no perpetrator of domestic violence shall be awarded sole or joint custody of any child.</p> <p>(b) Notwithstanding other provisions of this title, there shall be a rebuttable presumption that no child shall primarily reside with a</p>	There is a rebuttable presumption that a domestic violence offender will not be awarded custody.

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			<p>perpetrator of domestic violence.</p> <p>(c) The above presumptions shall be overcome if there have been no further acts of domestic violence and the perpetrator of domestic violence has: (1) Successfully completed a program of evaluation and counseling designed specifically for perpetrators of family violence and conducted by a public or private agency or a certified mental health professional; and (2) Successfully completed a program of alcohol or drug abuse counseling if the Court determines that such counseling is appropriate; and (3) Demonstrated that giving custodial or residential responsibilities to the perpetrator of domestic violence is in the best interests of the child.</p> <p>The presumption may otherwise be overcome only if a judicial officer finds extraordinary circumstances that warrant the rejection of the presumption, such as evidence demonstrating that there exists no significant risk of future violence against any adult or minor child living in the home or any other family member, including any ex-spouse.</p>	
District of Columbia	Yes	D.C. Code § 16-914 (2014)	<p>§ 16-914. Custody of children</p> <p>(a)(1)(B) (ii) "Physical custody" means a child's living arrangements. The term "physical custody" includes a child's residency or visitation schedule.</p> <p>(2) Unless the court determines that it is not in the best interest of the child, the court may issue an order that provides for frequent and continuing contact between each parent and the minor child or children and for the sharing of responsibilities of child-rearing and encouraging the love, affection, and contact between the minor child or children and the parents regardless of marital status. There shall be a rebuttable presumption that joint custody is in the best interest of the child or children, except in instances where a judicial officer has found by a preponderance of the evidence that an intrafamily offense as defined in § 16-1001(8), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 4-1301.02), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Code § 4-1341.01), or where parental kidnapping as defined in D.C. Code section 16-1021 through section 16-1026 has occurred. There shall be a rebuttable presumption that joint custody is not in the best interest of the child or children if a judicial officer finds by a preponderance of the evidence that an intrafamily offense as defined in § 16-1001(8), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 4-1301.02), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Code § 4-1341.01), or where parental kidnapping as defined in D.C. Code section 16-1021 through section 16-1026 has occurred.</p> <p>(a-1) For the purposes of this section, if the judicial officer finds by a preponderance of evidence that a contestant for custody has committed an intrafamily offense, any determination that custody or visitation is to be granted to the abusive parent shall be supported by a written statement by the judicial officer specifying factors and findings which support that determination. In determining visitation arrangements, if the judicial officer finds that an intrafamily offense has occurred, the judicial officer shall only award visitation if the judicial officer finds that the child and custodial parent can be adequately protected from harm inflicted by the other party. The party found to have committed an intrafamily offense has the burden of proving that visitation will not endanger the child or significantly impair the child's emotional development.</p>	There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.
Florida	Yes	Fla. Stat. § 61.13 (2014)	<p>§ 61.13. Support of children; parenting and time-sharing; powers of court</p> <p>(2)(c)(2). The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. Evidence that a parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775, or meets the criteria of s. 39.806(1)(d), creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted after the convicted parent is advised by the court that the presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.</p>	There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.

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Georgia	No	Ga. Code Ann. § 19-9-3 (2014)	<p>§ 19-9-3. Discretion of judge in custody disputes; right of child 14 years old or older to select custodial parent; consideration of child's educational needs; review of visitation rights; grandparent visitation; policy; retention of jurisdiction; attorney's fees; filing of domestic relations final disposition form; application to military parents</p> <p>(a)(1) In all cases in which the custody of any child is at issue between the parents, there shall be no prima-facie right to the custody of the child in the father or mother. There shall be no presumption in favor of any particular form of custody, legal or physical, nor in favor of either parent. Joint custody may be considered as an alternative form of custody by the judge and the judge at any temporary or permanent hearing may grant sole custody, joint custody, joint legal custody, or joint physical custody as appropriate. ...</p> <p>(3) In determining the best interests of the child, the judge may consider any relevant factor including, but not limited to:... (P)Any evidence of family violence or sexual, mental, or physical child abuse or criminal history of either parent ...</p> <p>(4) In addition to other factors that a judge may consider in a proceeding in which the custody of a child or visitation or parenting time by a parent is at issue and in which the judge has made a finding of family violence: (A) The judge shall consider as primary the safety and well-being of the child and of the parent who is the victim of family violence; (B) The judge shall consider the perpetrator's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault to another person; ... (D) The judge shall not refuse to consider relevant or otherwise admissible evidence of acts of family violence merely because there has been no previous finding of family violence. The judge may, in addition to other appropriate actions, order supervised visitation or parenting time pursuant to Code Section 19-9-7.</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
Hawaii	No	Haw. Rev. Stat. § 571-46 (2014)	<p>§ 571-46. Criteria and procedure in awarding custody and visitation; best interest of the child.</p> <p>(a)(9) In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that family violence has been committed by a parent raises a rebuttable presumption 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 family violence. In addition to other factors that a court shall consider in a proceeding in which the custody of a child or visitation by a parent is at issue, and in which the court has made a finding of family violence by a parent:</p> <p>(A) The court shall consider as the primary factor the safety and well-being of the child and of the parent who is the victim of family violence;</p> <p>(B) The court shall consider the perpetrator's history of causing physical harm, bodily injury, or assault or causing reasonable fear of physical harm, bodily injury, or assault to another person;</p>	There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.
Idaho	No	Idaho Code Ann. § 32-717B (2011)	<p>§ 32-717B. Joint custody</p> <p>(5) There shall be a presumption that joint custody is not in the best interests of a minor child if one (1) of the parents is found by the court to be a habitual perpetrator of domestic violence as defined in section 39-6303, Idaho Code.</p>	There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.
Illinois	No	750 Ill. Comp. Stat. 5/602 (2014)	<p>§ 750 ILCS 5/602. Best Interest of Child</p> <p>(a) The court shall determine custody in accordance with the best interest of the child. The court shall consider all relevant factors including: ... (6) the physical violence or threat of physical violence by the child's potential custodian, whether directed against the child or directed against another person; (7) the occurrence of ongoing or repeated abuse as defined in Section 103 of the Illinois Domestic Violence Act of 1986 [750 ILCS 60/103], whether directed against the child or directed against another person; ...</p> <p>(c) Unless the court finds the occurrence of ongoing abuse as defined in Section 103 of the Illinois Domestic Violence Act of 1986 [750 ILCS 60/103], the court shall presume that the maximum involvement and cooperation of both parents regarding the physical, mental, moral, and emotional well-being of their child is in the best interest of the child. There shall be no presumption in favor of or against</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor

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Indiana	No	Ind. Code § 31-17-2-8 (2014)	<p>§ 31-17-2-8 Factors considered -- Standard.</p> <p>The court shall determine custody and enter a custody order in accordance with the best interests of the child. In determining the best interests of the child, there is no presumption favoring either parent. The court shall consider all relevant factors, including the following: ... (7) Evidence of a pattern of domestic or family violence by either parent.</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
Iowa	Yes	Iowa Code § 598.41 (2014)	<p>§ 598.41 Custody of children.</p> <p>1. a. The court may provide for joint custody of the child by the parties. The court, insofar as is reasonable and in the best interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents after the parents have separated or dissolved the marriage, and which will encourage parents to share the rights and responsibilities of raising the child unless direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result from such contact with one parent.</p> <p>b. Notwithstanding paragraph "a", if the court finds that a history of domestic abuse exists, a rebuttable presumption against the awarding of joint custody exists.</p> <p>c. The court shall consider the denial by one parent of the child's opportunity for maximum continuing contact with the other parent, without just cause, a significant factor in determining the proper custody arrangement. Just cause may include a determination by the court pursuant to subsection 3, paragraph "j", that a history of domestic abuse exists between the parents.</p> <p>d. If a history of domestic abuse exists as determined by a court pursuant to subsection 3, paragraph "j", and if a parent who is a victim of such domestic abuse relocates or is absent from the home based upon the fear of or actual acts or threats of domestic abuse perpetrated by the other parent, the court shall not consider the relocation or absence of that parent as a factor against that parent in the awarding of custody or visitation. ...</p> <p>2. a. On the application of either parent, the court shall consider granting joint custody in cases where the parents do not agree to joint custody.</p> <p>b. If the court does not grant joint custody under this subsection, the court shall cite clear and convincing evidence, pursuant to the factors in subsection 3, that joint custody is unreasonable and not in the best interest of the child to the extent that the legal custodial relationship between the child and a parent should be severed.</p> <p>c. A finding by the court that a history of domestic abuse exists, as specified in subsection 3, paragraph "j", which is not rebutted, shall outweigh consideration of any other factor specified in subsection 3 in the determination of the awarding of custody under this subsection.</p> <p>3. In considering what custody arrangement under subsection 2 is in the best interest of the minor child, the court shall consider the</p>	There is a rebuttable presumption that a domestic violence offender will not be awarded custody.

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			following factors: ... i. Whether the safety of the child, other children, or the other parent will be jeopardized by the awarding of joint custody or by unsupervised or unrestricted visitation. j. Whether a history of domestic abuse, as defined in section 236.2, exists. In determining whether a history of domestic abuse exists, the court's consideration shall include, but is not limited to, commencement of an action pursuant to section 236.3, the issuance of a protective order against the parent or the issuance of a court order or consent agreement pursuant to section 236.5, the issuance of an emergency order pursuant to section 236.6, the holding of a parent in contempt pursuant to section 664A.7, the response of a peace officer to the scene of alleged domestic abuse or the arrest of a parent following response to a report of alleged domestic abuse, or a conviction for domestic abuse assault pursuant to section 708.2A.	
Kansas	Yes	Kan. Stat. Ann. § 23-3203 (2014) Kan. Stat. Ann. § 23-3206 (2014)	23-3203. Factors considered in determination of child custody, residency and parenting time. In determining the issue of child custody, residency and parenting time, the court shall consider all relevant factors, including but not limited to: ... (i) evidence of spousal abuse, either emotional or physical... 23-3206. Legal custodial arrangements. Subject to the provisions of this article, the court may make any order relating to custodial arrangements which is in the best interests of the child. The order shall provide one of the following legal custody arrangements, in the order of preference: (a) Joint legal custody. The court may order the joint legal custody of a child with both parties. In that event, the parties shall have equal rights to make decisions in the best interests of the child. (b) Sole legal custody. The court may order the sole legal custody of a child with one of the parties when the court finds that it is not in the best interests of the child that both of the parties have equal rights to make decisions pertaining to the child. If the court does not order joint legal custody, the court shall include on the record specific findings of fact upon which the order for sole legal custody is based. The award of sole legal custody to one parent shall not deprive the other parent of access to information regarding the child unless the court shall so order, stating the reasons for that determination.	Violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
Kentucky	No	Ky. Rev. Stat. Ann. § 403.270 (2014)	§ 403.270. Custodial issues -- Best interests of child shall determine -- Joint custody permitted -- De facto custodian. (3) The court shall not consider conduct of a proposed custodian that does not affect his relationship to the child. If domestic violence and abuse is alleged, the court shall determine the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.	The effect of domestic violence on the child is considered as a factor in determining the best interests of the child.
Louisiana	Yes	La. Civ. Code Ann. art. 132 (2014) La. Rev. Stat. Ann. § 9:364	Art. 132. Award of custody to parents ... In the absence of agreement, or if the agreement is not in the best interest of the child, the court shall award custody to the parents jointly; however, if custody in one parent is shown by clear and convincing evidence to serve the best interest of the child, the court shall award custody to that parent. § 9:364. Child custody; visitation A. There is created a presumption that no parent who has a history of perpetrating family violence shall be awarded sole or joint custody of children. The court may find a history of perpetrating family violence if the court finds that one incident of family violence has resulted in serious bodily injury or the court finds more than one incident of family violence. The presumption shall be overcome only by a preponderance of the evidence that the perpetrating parent has successfully completed a treatment program as defined in R.S.	There is a rebuttable presumption that a domestic violence offender will not be awarded custody.

JOINT CUSTODY PRESUMPTIONS AND DOMESTIC VIOLENCE EXCEPTIONS

Joint custody statute	Joint custody presumed or favored?	Relevant Statutes	Statutory Language – Joint Custody Presumption & Consideration of Domestic Violence	Summary
		(2014)	<p>9:362, is not abusing alcohol and the illegal use of drugs scheduled in R.S. 40:964, and that the best interest of the child or children requires that parent's participation as a custodial parent because of the other parent's absence, mental illness, or substance abuse, or such other circumstances which affect the best interest of the child or children. The fact that the abused parent suffers from the effects of the abuse shall not be grounds for denying that parent custody. ...</p> <p>C. If the court finds that a parent has a history of perpetrating family violence, the court shall allow only supervised child visitation with that parent, conditioned upon that parent's participation in and completion of a treatment program. Unsupervised visitation shall be allowed only if it is shown by a preponderance of the evidence that the violent parent has completed a treatment program, is not abusing alcohol and psychoactive drugs, and poses no danger to the child, and that such visitation is in the child's best interest.</p>	
Maine	No	Me. Rev. Stat. tit. 19-A, § 1653 (2014)	<p>§ 1653. Parental rights and responsibilities</p> <p>1. LEGISLATIVE FINDINGS AND PURPOSE. The Legislature makes the following findings concerning relationships among family members in determining what is in the best interest of children....B. The Legislature finds that domestic abuse is a serious crime against the individual and society, producing an unhealthy and dangerous family environment, resulting in a pattern of escalating abuse, including violence, that frequently culminates in intrafamily homicide and creating an atmosphere that is not conducive to healthy childhood development....</p> <p>3. BEST INTEREST OF CHILD. The court, in making an award of parental rights and responsibilities with respect to a child, shall apply the standard of the best interest of the child. In making decisions regarding the child's residence and parent-child contact, the court shall consider as primary the safety and well-being of the child. In applying this standard, the court shall consider the following factors:... L. The existence of domestic abuse between the parents, in the past or currently, and how that abuse affects: 1) The child emotionally; 2) The safety of the child; and 3) The other factors listed in this subsection, which must be considered in light of the presence of past or current domestic abuse;...</p> <p>6. CONDITIONS OF PARENT-CHILD CONTACT IN CASES INVOLVING DOMESTIC ABUSE. The court shall establish conditions of parent-child contact in cases involving domestic abuse as follows. A. A court may award primary residence of a minor child or parent-child contact with a minor child to a parent who has committed domestic abuse only if the court finds that contact between the parent and child is in the best interest of the child and that adequate provision for the safety of the child and the parent who is a victim of domestic abuse can be made.</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
Maryland	No	Md. Code Ann., Fam. Law § 9-101.1 (2014) Md. Code Ann., Fam. Law § 5-203 (2014)	<p>§ 9-101.1. Abuse against certain individuals</p> <p>(a) Definition. -- In this section, "abuse" has the meaning stated in § 4-501 of this article.</p> <p>(b) Evidence of abuse against certain individuals. -- In a custody or visitation proceeding, the court shall consider, when deciding custody or visitation issues, evidence of abuse by a party against: (1) the other parent of the party's child; (2) the party's spouse; or (3) any child residing within the party's household, including a child other than the child who is the subject of the custody or visitation proceeding.</p> <p>(c) Protection of child and victim. -- If the court finds that a party has committed abuse against the other parent of the party's child, the party's spouse, or any child residing within the party's household, the court shall make arrangements for custody or visitation that best protect: (1) the child who is the subject of the proceeding; and (2) the victim of the abuse.</p> <p>§ 5-203. Natural guardianship; powers and duties of parents; support obligations of grandparents; award of custody to parent</p> <p>(a) Natural guardianship. -- (1) The parents are the joint natural guardians of their minor child....</p> <p>(d) Award of custody to parent. -- (1) If the parents live apart, a court may award custody of a minor child to either parent or joint custody to both parents. (2) Neither parent is presumed to have any right to custody that is superior to the right of the other parent.</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.

JOINT CUSTODY PRESUMPTIONS AND DOMESTIC VIOLENCE EXCEPTIONS

Joint custody statute	Joint custody presumed or favored?	Relevant Statutes	Statutory Language – Joint Custody Presumption & Consideration of Domestic Violence	Summary
Massachusetts	No	Mass. Gen. Laws ch. 208, § 31A (2014)	<p>§ 31A. Custody and Visitation of Children With Abusive Parent.</p> <p>In issuing any temporary or permanent custody order, the probate and family court shall consider evidence of past or present abuse toward a parent or child as a factor contrary to the best interest of the child. For the purposes of this section, "abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing bodily injury; or (b) placing another in reasonable fear of imminent bodily injury. "Serious incident of abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing serious bodily injury; (b) placing another in reasonable fear of imminent serious bodily injury; or (c) causing another to engage involuntarily in sexual relations by force, threat or duress. For purposes of this section, "bodily injury" and "serious bodily injury" shall have the same meanings as provided in section 13K of chapter 265.</p> <p>A probate and family court's finding, by a preponderance of the evidence, that a pattern or serious incident of abuse has occurred shall create a rebuttable presumption that it is not in the best interests of the child to be placed in sole custody, shared legal custody or shared physical custody with the abusive parent. Such presumption may be rebutted by a preponderance of the evidence that such custody award is in the best interests of the child. For the purposes of this section, "an abusive parent" shall mean a parent who has committed a pattern of abuse or a serious incident of abuse.</p>	<p>There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.</p>
Michigan	No	Mich. Comp. Laws § 722.23 (2014) Mich. Comp. Laws § 722.26a (2014)	<p>§ 722.23. "Best interests of the child" defined.</p> <p>Sec. 3. As used in this act, "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court:... (k) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.</p> <p>§ 722.26a. Joint custody.</p> <p>Sec. 6a. (1) In custody disputes between parents, the parents shall be advised of joint custody. At the request of either parent, the court shall consider an award of joint custody, and shall state on the record the reasons for granting or denying a request. In other cases joint custody may be considered by the court. The court shall determine whether joint custody is in the best interest of the child by considering the following factors: (a) The factors enumerated in section 3.</p>	<p>Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.</p>
Minnesota	Yes	Minn. Stat. § 518.17 (2014)	<p>§ 518.17 CUSTODY AND SUPPORT OF CHILDREN ON JUDGMENT [Effective until Aug. 1, 2012]</p> <p>Subdivision 1. The best interests of the child.</p> <p>(a) "The best interests of the child" means all relevant factors to be considered and evaluated by the court including:... (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.</p> <p>Subdivision 2. Factors when joint custody is sought. -- 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:...</p> <p>(d) whether domestic abuse, as defined in section 518B.01, has occurred between the parents.</p> <p>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.</p>	<p>There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.</p>

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Joint custody statute	Joint custody presumed or favored?	Relevant Statutes	Statutory Language – Joint Custody Presumption & Consideration of Domestic Violence	Summary
Mississippi	Yes	Miss. Code Ann. § 93-5-24 (2014)	<p>§ 93-5-24. Types of custody awarded by court; joint custody; no presumption in favor of maternal custody; access to information pertaining to child by noncustodial parent; restrictions on custody by parent with history of perpetrating family violence; rebuttable presumption that such custody is not in the best interest of the child; factors in reaching determinations; visitation orders</p> <p>(4) There shall be a presumption that joint custody is in the best interest of a minor child where both parents have agreed to an award of joint custody. ...</p> <p>(9) (a) (i) In every proceeding where the custody of a child is in dispute, there shall be a rebuttable presumption 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 of a parent who has a history of perpetrating family violence. The court may find a history of perpetrating family violence if the court finds, by a preponderance of the evidence, one (1) incident of family violence that has resulted in serious bodily injury to, or a pattern of family violence against, the party making the allegation or a family household member of either party. The court shall make written findings to document how and why the presumption was or was not triggered.</p>	<p>There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.</p>
Missouri	No	Mo. Rev. Stat. § 452.375 (2014)	<p>§ 452.375. Custody -- definitions -- factors determining custody -- prohibited, when -- public policy of state -- custody options plan, when required -- findings required, when -- exchange of information and right to certain records, failure to disclose -- fees, costs assessed, when -- joint custody not to preclude child support -- support, how determined -- domestic violence or abuse, specific findings</p> <p>2. The court shall determine custody in accordance with the best interests of the child. The court shall consider all relevant factors including: ... (6) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the court finds that a pattern of domestic violence as defined in section 455.010 has occurred, and, if the court also finds that awarding custody to the abusive parent is in the best interest of the child, then the court shall enter written findings of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the child and any other child or children for whom the parent has custodial or visitation rights, and the parent or other family or household member who is the victim of domestic violence from any further harm; ...</p> <p>13. If the court finds that domestic violence or abuse, as defined in section 455.010 has occurred, the court shall make specific findings of fact to show that the custody or visitation arrangement ordered by the court best protects the child and the parent or other family or household member who is the victim of domestic violence, as defined in section 455.010, and any other children for whom such parent has custodial or visitation rights from any further harm.</p>	<p>Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.</p>
Montana	No	Mont. Code Ann. § 40-4-212 (2013)	<p>40-4-212 Best interest of child.</p> <p>(1) The court shall determine the parenting plan in accordance with the best interest of the child. The court shall consider all relevant parenting factors, which may include but are not limited to: ... (f) physical abuse or threat of physical abuse by one parent against the other parent or the child;</p>	<p>Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a discretionary factor to be considered when determining the child's best interests.</p>

JOINT CUSTODY PRESUMPTIONS AND DOMESTIC VIOLENCE EXCEPTIONS

Joint custody statute	Joint custody presumed or favored?	Relevant Statutes	Statutory Language – Joint Custody Presumption & Consideration of Domestic Violence	Summary
Nebraska	No	<p>Neb. Rev. Stat. § 43-2921 (2013)</p> <p>Neb. Rev. Stat. § 43-2923 (2013)</p> <p>Neb. Rev. Stat. § 43-2932 (2013)</p>	<p>§ 43-2921. Legislative findings</p> <p>... Given the potential profound effects on children from witnessing child abuse or neglect or domestic intimate partner abuse, as well as being directly abused, the courts shall recognize the duty and responsibility to keep the child or children safe when presented with a preponderance of the evidence of child abuse or neglect or domestic intimate partner abuse, including evidence of a child being used by the abuser to establish or maintain power and control over the victim. In domestic intimate partner abuse cases, the best interests of each child are often served by keeping the child and the victimized partner safe and not allowing the abuser to continue the abuse. When child abuse or neglect, domestic intimate partner abuse, or unresolved parental conflict prevents the best interests of the child from being served in the parenting arrangement, then the safety and welfare of the child is paramount in the resolution of those conflicts.</p> <p>§ 43-2923. Best interests of the child requirements.</p> <p>The best interests of the child require:... (2) When a preponderance of the evidence indicates domestic intimate partner abuse, a parenting and visitation arrangement that provides for the safety of a victim parent;... (6) In determining custody and parenting arrangements, the court shall consider the best interests of the minor child, which shall include, but not be limited to, consideration of the foregoing factors and:... (e) Credible evidence of child abuse or neglect or domestic intimate partner abuse. For purposes of this subdivision, the definitions in section 43-2922 shall be used.</p> <p>§ 43-2932. Parenting plan; limitations to protect child or child's parent from harm; effect of court determination; burden of proof.</p> <p>(1) When the court is required to develop a parenting plan: (a) If a preponderance of the evidence demonstrates, the court shall determine whether a parent who would otherwise be allocated custody, parenting time, visitation, or other access to the child under a parenting plan:... (iii) Has committed domestic intimate partner abuse;... (b) If a parent is found to have engaged in any activity specified by subdivision (1)(a) of this section, limits shall be imposed that are reasonably calculated to protect the child or child's parent from harm. The limitations may include, but are not limited to: (i) An adjustment of the custody of the child, including the allocation of sole legal custody or physical custody to one parent; ...</p> <p>(3) If a parent is found to have engaged in any activity specified in subsection (1) of this section, the court shall not order legal or physical custody to be given to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under such subsection. The parent found to have engaged in the behavior specified in subsection (1) of this section has the burden of proving that legal or physical custody, parenting time, visitation, or other access to that parent will not endanger the child or the other parent.</p>	<p>Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.</p>
Nevada	Yes	<p>Nev. Rev. Stat. § 125.460 (2013)</p> <p>Nev. Rev. Stat. § 125C.230 (2013)</p>	<p>§ 125.460. State policy.</p> <p>The legislature declares that it is the policy of this state: 1. To ensure that minor children have frequent associations and a continuing relationship with both parents after the parents have become separated or have dissolved their marriage; and 2. To encourage such parents to share the rights and responsibilities of child rearing.</p> <p>§ 125C.230. Presumption concerning custody when court determines that parent or other person seeking custody of child is perpetrator of domestic violence.</p> <p>1. Except as otherwise provided in NRS 125C.210 and NRS 125C.220, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody of a child has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child.</p>	<p>There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.</p>

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Joint custody statute	Joint custody presumed or favored?	Relevant Statutes	Statutory Language – Joint Custody Presumption & Consideration of Domestic Violence	Summary
New Hampshire	No	N.H. Rev. Stat. Ann. § 461-A:6 (2014)	<p>§ 61-A:6 Determination of Parental Rights and Responsibilities; Best Interest.</p> <p>I. In determining parental rights and responsibilities, the court shall be guided by the best interests of the child, and shall consider the following factors:... (j) Any evidence of abuse, as defined in RSA 173-B:1, I or RSA 169-C:3, II, and the impact of the abuse on the child and on the relationship between the child and the abusing parent.</p>	The effect of domestic violence on the child is considered as a factor in determining the best interests of the child.
New Jersey	No	N.J. Stat. Ann. § 9:2-4 (2014)	<p>§ 9:2-4. Custody of child; rights of both parents considered</p> <p>...In making an award of custody, the court shall consider but not be limited to the following factors: ... the history of domestic violence, if any; the safety of the child and the safety of either parent from physical abuse by the other parent; ...</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
New Mexico	Yes	N.M. Stat. Ann. § 40-4-9.1 (2014)	<p>§ 40-4-9.1. Joint custody; standards for determination; parenting plan</p> <p>A. There shall be a presumption that joint custody is in the best interests of a child in an initial custody determination....</p> <p>B. In determining whether a joint custody order is in the best interests of the child, in addition to the factors provided in Section 40-4-9 NMSA 1978, the court shall consider the following factors:... (9) whether a judicial adjudication has been made in a prior or the present proceeding that either parent or other person seeking custody has engaged in one or more acts of domestic abuse against the child, a parent of the child or other household member. If a determination is made that domestic abuse has occurred, the court shall set forth findings that the custody or visitation ordered by the court adequately protects the child, the abused parent or other household member.</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
New York	No	N.Y. Dom. Rel. Law § 240 (Consol. 2014)	<p>§ 240. Custody and child support; orders of protection</p> <p>1. (a) In any action or proceeding brought...(4) to obtain...the custody of or right to visitation with any child of a marriage,...the court shall require verification of the status of any child of the marriage with respect to such child's custody and support, including any prior orders, and shall enter orders for custody and support as, in the court's discretion, justice requires, having regard to the circumstances of the case and of the respective parties and to the best interests of the child and subject to the provisions of subdivision one-c of this section. Where either party to an action concerning custody of or a right to visitation with a child alleges in a sworn petition or</p>	Domestic violence against a family member, regardless of whether it

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Joint custody statute	Joint custody presumed or favored?	Relevant Statutes	Statutory Language – Joint Custody Presumption & Consideration of Domestic Violence	Summary
			complaint or sworn answer, cross-petition, counterclaim or other sworn responsive pleading that the other party has committed an act of domestic violence against the party making the allegation or a family or household member of either party, as such family or household member is defined in article eight of the family court act, and such allegations are proven by a preponderance of the evidence, the court must consider the effect of such domestic violence upon the best interests of the child, together with such other facts and circumstances as the court deems relevant in making a direction pursuant to this section and state on the record how such findings, facts and circumstances factored into the direction. If a parent makes a good faith allegation based on a reasonable belief supported by facts that the child is the victim of child abuse, child neglect, or the effects of domestic violence, and if that parent acts lawfully and in good faith in response to that reasonable belief to protect the child or seek treatment for the child, then that parent shall not be deprived of custody, visitation or contact with the child, or restricted in custody, visitation or contact, based solely on that belief or the reasonable actions taken based on that belief.	affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
North Carolina	No	N.C. Gen. Stat. § 50-13.2 (2014)	<p>§ 50-13.2. Who entitled to custody; terms of custody; visitation rights of grandparents; taking child out of State</p> <p>(a) An order for custody of a minor child entered pursuant to this section shall award the custody of such child to such person, agency, organization or institution as will best promote the interest and welfare of the child. In making the determination, the court shall consider all relevant factors including acts of domestic violence between the parties, the safety of the child, and the safety of either party from domestic violence by the other party and shall make findings accordingly. ...</p> <p>(b) An order for custody of a minor child may grant joint custody to the parents, exclusive custody to one person, agency, organization, or institution, or grant custody to two or more persons, agencies, organizations, or institutions. Any order for custody shall include such terms, including visitation, as will best promote the interest and welfare of the child. If the court finds that domestic violence has occurred, the court shall enter such orders that best protect the children and party who were the victims of domestic violence, in accordance with the provisions of G.S. 50B-3(a1)(1), (2), and (3).</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
North Dakota	No	N.D. Cent. Code, § 14-09-06.2 (2013)	<p>§ 14-09-06.2. Best interests and welfare of child -- Court consideration -- Factors.</p> <p>1. For the purpose of parental rights and responsibilities, the best interests and welfare of the child is determined by the court's consideration and evaluation of all factors affecting the best interests and welfare of the child. These factors include all of the following when applicable:... j. Evidence of domestic violence. In determining parental rights and responsibilities, the court shall consider evidence of domestic violence. If the court finds credible evidence that domestic violence has occurred, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, this combination creates a rebuttable presumption that a parent who has perpetrated domestic violence may not be awarded residential responsibility for the child. This presumption may be overcome only by clear and convincing evidence that the best interests of the child require that parent have residential responsibility. The court shall cite specific findings of fact to show that the residential responsibility best protects the child and the parent or other family or household member who is the victim of domestic violence. If necessary to protect the welfare of the child, residential responsibility for a child may be awarded to a suitable third person, provided that the person would not allow access to a violent parent except as ordered by the court. If the court awards residential responsibility to a third person, the court shall give priority to the child's nearest suitable adult relative. The fact that the abused parent suffers from the effects of the abuse may not be grounds for denying that parent residential responsibility. As used in this subdivision, "domestic violence" means domestic violence as defined in section 14-07.1-01. A court may consider, but is not bound by, a finding of domestic violence in another proceeding under chapter 14-07.1.</p>	There is a rebuttable presumption that a domestic violence offender will not be awarded custody.
Ohio	No	Ohio Rev. Code Ann. § 3109.04 (2014)	<p>§ 3109.04. Allocation of parental rights and responsibilities for care of children; shared parenting</p> <p>(F)(2) In determining whether shared parenting is in the best interest of the children, the court shall consider all relevant factors, including, but not limited to, the factors enumerated in division (F)(1) of this section, the factors enumerated in section 3119.23 of the Revised Code, and all of the following factors:... (c) Any history of, or potential for, child abuse, spouse abuse, other domestic violence, or parental kidnapping by either parent;</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a

Joint custody statute	Joint custody presumed or favored?	Relevant Statutes	Statutory Language – Joint Custody Presumption & Consideration of Domestic Violence	Summary
				mandatory factor to be considered when determining the child’s best interests.)
Oklahoma	No	43 Okla. Stat. tit. 43, § 109 (2014) 43 Okla. Stat. tit. 43, § 109.3 (2014)	<p>§ 109. Awarding custody or appointing guardian--Joint custody--Domestic violence, stalking, or harassment--Court considerations</p> <p>I. 1. In every proceeding in which there is a dispute as to the custody of a minor child, a determination by the court that domestic violence, stalking, or harassment has occurred raises a rebuttable presumption that sole custody, joint legal or physical custody, or any shared parenting plan with the perpetrator of domestic violence, harassing or stalking behavior is detrimental and not in the best interest of the child, and it is in the best interest of the child to reside with the parent who is not a perpetrator of domestic violence, harassing or stalking behavior.</p> <p>§ 109.3. Custody, guardianship or visitation cases--Evidence of domestic abuse</p> <p>In every case involving the custody of, guardianship of or visitation with a child, the court shall consider evidence of domestic abuse, stalking and/or harassing behavior properly brought before it. If the occurrence of domestic abuse, stalking or harassing behavior is established by a preponderance of the evidence, there shall be a rebuttable presumption that it is not in the best interest of the child to have custody, guardianship, or unsupervised visitation granted to the person against whom domestic abuse, stalking or harassing behavior has been established.</p>	There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody
Oregon	No	Or. Rev. Stat. § 107.137 (2014)	<p>107.137 Factors considered in determining custody of child.</p> <p>(1) Except as provided in subsection (5) of this section, in determining custody of a minor child under ORS 107.105 or 107.135, the court shall give primary consideration to the best interests and welfare of the child. In determining the best interests and welfare of the child, the court shall consider the following relevant factors: . . . (d) The abuse of one parent by the other;</p> <p>(2) The best interests and welfare of the child in a custody matter shall not be determined by isolating any one of the relevant factors referred to in subsection (1) of this section, or any other relevant factor, and relying on it to the exclusion of other factors. However, if a parent has committed abuse as defined in ORS 107.705, other than as described in subsection (5) of this section, there is a rebuttable presumption that it is not in the best interests and welfare of the child to award sole or joint custody of the child to the parent who committed the abuse.</p>	There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody
Pennsylvania	No	23 Pa. Cons. Stat. § 5328 (2014)	<p>§ 5328. Factors to consider when awarding custody.</p> <p>(a) Factors. -- In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving weighted consideration to those factors which affect the safety of the child, including the following: . . . (2) The present and past abuse committed by a party or member of the party’s household, whether there is a continued risk of harm to the child or an abused party and which party can better provide adequate physical safeguards and supervision of the child.</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child’s best interests.

JOINT CUSTODY PRESUMPTIONS AND DOMESTIC VIOLENCE EXCEPTIONS

Joint custody statute	Joint custody presumed or favored?	Relevant Statutes	Statutory Language – Joint Custody Presumption & Consideration of Domestic Violence	Summary
Rhode Island	No	R.I. Gen. Laws § 15-5-16 (2014)	<p>§ 15-5-16. Alimony and counsel fees -- Custody of children</p> <p>(g) (1) Notwithstanding the provisions of this section and § 15-5-19, the court, when making decisions regarding child custody and visitation, shall consider evidence of past or present domestic violence. Where domestic violence is proven, any grant of visitation shall be arranged so as to best protect the child and the abused parent from further harm.</p> <p>(2) In addition to other factors that a court must consider in a proceeding in which the court has made a finding of domestic or family violence, the court shall consider as primary the safety and well-being of the child and of the parent who is the victim of domestic or family violence. The court shall also consider the perpetrator's history of causing physical harm, bodily injury or assault to another person.</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
South Carolina	No	S.C. Code Ann. § 63-15-40 (2013)	<p>§ 63-15-40. Consideration of domestic violence.</p> <p>(A) In making a decision regarding custody of a minor child, in addition to other existing factors specified by law, the court must give weight to evidence of domestic violence as defined in Section 16-25-20 or Section 16-25-65 including, but not limited to:</p> <ol style="list-style-type: none"> (1) physical or sexual abuse; and (2) if appropriate, evidence of which party was the primary aggressor, as defined in Section 16-25-70. 	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
South Dakota	No	S.D. Codified Laws § 25-4-45.5 (2014)	<p>§ 25-4-45.5. Consideration of assault conviction in custody award</p> <p>In awarding custody involving a minor, the court shall consider:</p> <ol style="list-style-type: none"> (1) A conviction of domestic abuse as defined in subdivision 25-10-1(1); or (2) A conviction of assault against a person as defined in subdivision 25-10-1(2), except against any person related by consanguinity, but not living in the same household; or (3) A history of domestic abuse. <p>The conviction or history of domestic abuse creates a rebuttable presumption that awarding custody to the abusive parent is not in the best interest of the minor. A history of domestic abuse may only be proven by greater convincing force of the evidence.</p>	There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.

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Tennessee	No	<p>Tenn. Code Ann. § 36-6-106 (2014)</p> <p>Tenn. Code Ann. §36-6-406</p>	<p>36-6-106. Child custody.</p> <p>(a) In a suit for annulment, divorce, separate maintenance, or in any other proceeding requiring the court to make a custody determination regarding a minor child, the determination shall be made on the basis of the best interest of the child. In taking into account the child's best interest, the court shall order a custody arrangement that permits both parents to enjoy the maximum participation possible in the life of the child consistent with the factors set out in subdivisions (a)(1)-(10), the location of the residences of the parents, the child's need for stability and all other relevant factors. The court shall consider all relevant factors, including the following, where applicable: . . . (8) Evidence of physical or emotional abuse to the child, to the other parent or to any other person; provided, that, where there are allegations that one (1) parent has committed child abuse, as defined in § 39-15-401 or § 39-15-402, or child sexual abuse, as defined in § 37-1-602, against a family member, the court shall consider all evidence relevant to the physical and emotional safety of the child, and determine, by a clear preponderance of the evidence, whether such abuse has occurred. The court shall include in its decision a written finding of all evidence, and all findings of facts connected to the evidence. In addition, the court shall, where appropriate, refer any issues of abuse to the juvenile court for further proceedings;</p> <p>36-6-406. Restrictions in temporary or permanent parenting plans.</p> <p>(a) The permanent parenting plan and the mechanism for approval of the permanent parenting plan shall not utilize dispute resolution, and a parent's residential time as provided in the permanent parenting plan or temporary parenting plan shall be limited if it is determined by the court, based upon a prior order or other reliable evidence, that a parent has engaged in any of the following conduct: . . . (2) Physical or sexual abuse or a pattern of emotional abuse of the parent, child or of another person living with that child as defined in § 36-3-601.</p> <p>(b) The parent's residential time with the child shall be limited if it is determined by the court, based upon a prior order or other reliable evidence, that the parent resides with a person who has engaged in physical or sexual abuse or a pattern of emotional abuse of the parent, child or of another person living with that child as defined in § 36-3-601.</p>	<p>Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.</p>
Texas	No	<p>Tex. Fam. Code Ann. § 153.004 (West 2013)</p>	<p>§ 153.004. History of Domestic Violence</p> <p>(a) In determining whether to appoint a party as a sole or joint managing conservator, the court shall consider evidence of the intentional use of abusive physical force by a party against the party's spouse, a parent of the child, or any person younger than 18 years of age committed within a two-year period preceding the filing of the suit or during the pendency of the suit.</p> <p>(b) The court may not appoint joint managing conservators if credible evidence is presented of a history or pattern of past or present child neglect, or physical or sexual abuse by one parent directed against the other parent, a spouse, or a child, including a sexual assault in violation of Section 22.011 or 22.021, Penal Code, that results in the other parent becoming pregnant with the child. A history of sexual abuse includes a sexual assault that results in the other parent becoming pregnant with the child, regardless of the prior relationship of the parents. It is a rebuttable presumption that the appointment of a parent as the sole managing conservator of a child or as the conservator who has the exclusive right to determine the primary residence of a child is not in the best interest of the child if credible evidence is presented of a history or pattern of past or present child neglect, or physical or sexual abuse by that parent directed against the other parent, a spouse, or a child.</p> <p>(c) The court shall consider the commission of family violence in determining whether to deny, restrict, or limit the possession of a child by a parent who is appointed as a possessory conservator.</p> <p>(d) The court may not allow a parent to have access to a child for whom it is shown by a preponderance of the evidence that there is a history or pattern of committing family violence during the two years preceding the date of the filing of the suit or during the pendency of the suit, unless the court:</p> <p>(1) finds that awarding the parent access to the child would not endanger the child's physical health or emotional welfare and would be in the best interest of the child; and</p> <p>(2) renders a possession order that is designed to protect the safety and well-being of the child and any other person who has been a victim of family violence committed by the parent and that may include a requirement that:</p>	<p>There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.</p>

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Joint custody statute	Joint custody presumed or favored?	Relevant Statutes	Statutory Language – Joint Custody Presumption & Consideration of Domestic Violence	Summary
			(A) the periods of access be continuously supervised by an entity or person chosen by the court; (B) the exchange of possession of the child occur in a protective setting; (C) the parent abstain from the consumption of alcohol or a controlled substance, as defined by Chapter 481, Health and Safety Code, within 12 hours prior to or during the period of access to the child; or (D) the parent attend and complete a battering intervention and prevention program as provided by Article 42.141, Code of Criminal Procedure, or, if such a program is not available, complete a course of treatment under Section 153.010. (e) It is a rebuttable presumption that it is not in the best interest of a child for a parent to have unsupervised visitation with the child if credible evidence is presented of a history or pattern of past or present child neglect or physical or sexual abuse by that parent directed against the other parent, a spouse, or a child.	
Utah	No	Utah Code Ann. § 30-3-10.2 (2014)	§ 30-3-10.2. Joint custody order -- Factors for court determination -- Public assistance (1) The court may order joint legal custody or joint physical custody or both if one or both parents have filed a parenting plan in accordance with Section 30-3-10.8 and it determines that joint legal custody or joint physical custody or both is in the best interest of the child. (2) In determining whether the best interest of a child will be served by ordering joint legal or physical custody, the court shall consider the following factors:...(i) any history of, or potential for, child abuse, spouse abuse, or kidnaping [sic];	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
Vermont	No	Vt. Stat. Ann. tit. 15, § 665 (2014) Vt. Stat. Ann. tit. 15, § 665a (2014)	§ 665. Rights and responsibilities order; best interests of the child (a) In an action under this chapter the court shall make an order concerning parental rights and responsibilities of any minor child of the parties. The court may order parental rights and responsibilities to be divided or shared between the parents on such terms and conditions as serve the best interests of the child. When the parents cannot agree to divide or share parental rights and responsibilities, the court shall award parental rights and responsibilities primarily or solely to one parent. (b) In making an order under this section, the court shall be guided by the best interests of the child, and shall consider at least the following factors:... (9) evidence of abuse, as defined in section 1101 of this title, and the impact of the abuse on the child and on the relationship between the child and the abusing parent. § 665a. Conditions of parent-child contact in cases involving domestic violence (a) If within the prior ten years, one of the parents has been convicted of domestic assault or aggravated domestic assault against the other parent, or has been found to have committed abuse against a family or household member, as defined in section 1101 of this title, the court may award parent-child contact to that parent if the court finds that adequate provision can be made for the safety of the child and the parent who is a victim of domestic violence. (b) In a parent-child contact order issued under subsection (a) of this section, a court may: (1) order an exchange of a child to occur in a protected setting; (2) order parent-child contact supervised by another person or agency; (3) order the perpetrator of domestic violence to participate in, to the satisfaction of the court, a program of intervention for perpetrators, where available, or other designated counseling as a condition of the visitation; (4) if alcohol or drugs were involved in the domestic abuse, order the perpetrator of domestic violence to abstain from being under the influence of alcohol or controlled substances without a prescription during the visitation and for 24 hours preceding parent-child contact;	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.

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			<p>(5) order the perpetrator of domestic violence to pay a fee to defray the costs of supervised parent-child contact, provided that the perpetrator can afford to pay the fee;</p> <p>(6) prohibit overnight parent-child contact;</p> <p>(7) impose any other condition that is deemed necessary or appropriate to provide for the safety of the child, the victim of domestic violence, or another family or household member.</p> <p>(c) Whether or not parent-child contact is allowed, the court may order the address of the child and the victim to be kept confidential.</p> <p>(d) If a court allows a family or household member to supervise parent-child contact, the court shall establish conditions to be followed during parent-child contact.</p>	
Virginia	No	<p>Va. Code Ann. § 20-124.2 (2014)</p> <p>Va. Code Ann. § 20-124.3 (2014)</p>	<p>§ 20-124.2. Court-ordered custody and visitation arrangements</p> <p>B. In determining custody, the court shall give primary consideration to the best interests of the child. The court shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing by clear and convincing evidence that the best interest of the child would be served thereby award custody or visitation to any other person with a legitimate interest. The court may award joint custody or sole custody.</p> <p>§ 20-124.3. Best interests of the child; visitation</p> <p>In determining best interests of a child for purposes of determining custody or visitation arrangements including any pendente lite orders pursuant to § 20-103, the court shall consider the following: ... 9. Any history of family abuse as that term is defined in § 16.1-228 or sexual abuse. If the court finds such a history, the court may disregard the factors in subdivision 6;</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a factor to be considered when determining the child's best interests.
Washington	No	Wash. Rev. Code § 26.09.191 (2014)	<p>§ 26.09.191. Restrictions in temporary or permanent parenting plans</p> <p>(1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or a pattern of emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.</p> <p>(2) (a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm; or (iv) the parent has been convicted as an adult of a sex offense...</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered when determining the child's best interests.
West Virginia	No	W. Va. Code § 48-9-209 (2014)	<p>§ 48-9-209. Parenting plan; limiting factors.</p> <p>(a) If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a parenting plan:...(3) Has committed domestic violence, as defined in section 27-202 [§ 48-27-202];</p> <p>(b) If a parent is found to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. ...</p>	Domestic violence against a family member, regardless of whether it affected or was witnessed by the child, is a mandatory factor to be considered

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				when determining the child's best interests.
Wisconsin	Yes	Wis. Stat. § 767.41 (2014)	<p>767.41. Custody and physical placement.</p> <p>(2)(am) Except as provided in par. (d), the court shall presume that joint legal custody is in the best interest of the child.</p> <p>(d) 1. Except as provided in subd. 4., if the court finds by a preponderance of the evidence that a party has engaged in a pattern or serious incident of interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1) (am), pars. (am), (b), and (c) do not apply and there is a rebuttable presumption that it is detrimental to the child and contrary to the best interest of the child to award joint or sole legal custody to that party. The presumption under this subdivision may be rebutted only by a preponderance of evidence of all of the following:</p> <p>a. The party who committed the battery or abuse has successfully completed treatment for batterers provided through a certified treatment program or by a certified treatment provider and is not abusing alcohol or any other drug.</p> <p>b. It is in the best interest of the child for the party who committed the battery or abuse to be awarded joint or sole legal custody based on a consideration of the factors under sub. (5) (am)</p>	There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.
Wyoming	No	Wyo. Stat. Ann. § 20-2-201 (2014)	<p>§ 20-2-201. Disposition and maintenance of children in decree or order; access to records.</p> <p>(c) The court shall consider evidence of spousal abuse or child abuse as being contrary to the best interest of the children. If the court finds that family violence has occurred, the court shall make arrangements for visitation that best protects the children and the abused spouse from further harm.</p>	There is a rebuttable presumption that it is not in the best interests of the child for a parent who has committed domestic violence to have custody.