

**Chart 2: Custody Criteria\***

STATE	Statutory Factors**	Child's Wishes	Joint Custody Authorized	Presumption in Favor of Joint Custody	Cooperative Parent	Domestic Violence***	Attorney or GAL****
<b>Alabama</b> ALA. CODE § 30-3-131 ALA. CODE § 30-3-152	X	X <sup>1</sup>	X	X <sup>2</sup>	X	X	
<b>Alaska</b> ALASKA STAT. § 25.20.060 ALASKA STAT. § 25.24.150	X	X	X		X	X	X
<b>Arizona</b> ARIZ. REV. STAT. § 25-321 ARIZ. REV. STAT. § 25-403	X	X	X	X	X	X	X
<b>Arkansas</b> ARK. CODE ANN. § 9-13-101		X	X			X	X
<b>California</b> CAL. FAM. CODE § 3010 CAL. FAM. CODE § 3011 CAL. FAM. CODE § 3020 CAL. FAM. CODE § 3027 CAL. FAM. CODE § 3027.5 CAL. FAM. CODE § 3028 CAL. FAM. CODE § 3030.5 CAL. FAM. CODE § 3031 CAL. FAM. CODE § 3040 CAL. FAM. CODE § 3041 CAL. FAM. CODE § 3041.5 CAL. FAM. CODE § 3042 CAL. FAM. CODE § 3044 CAL. FAM. CODE § 3046 CAL. FAM. CODE § 3047 CAL. FAM. CODE § 3048 CAL. FAM. CODE § 3064 CAL. FAM. CODE § 3080 CAL. FAM. CODE § 3081 CAL. FAM. CODE § 3085 CAL. FAM. CODE § 3120 CAL. FAM. CODE § 3150 CAL. FAM. CODE § 6323	X	X	X	X <sup>2</sup>	X	X	X
<b>Colorado</b> COLO. REV. STAT. § 14-10-124	X	X	X <sup>3</sup>		X	X	X
<b>Connecticut</b> CONN. GEN. STAT. § 46B-54 CONN. GEN. STAT. § 46B-56	X	X	X	X <sup>2</sup>	X	X	X
<b>Delaware</b> DEL. CODE ANN. TIT. 13 § 721 DEL. CODE ANN. TIT. 13 § 722	X	X	X		X	X	X
<b>District of Columbia</b> D.C. CODE § 16-914	X	X	X		X	X	X
<b>Florida</b> FLA. STAT. § 61.13 FLA. STAT. § 61.401	X	X	X	X <sup>4</sup>	X	X	X
<b>Georgia</b> GA. CODE ANN. § 19-9-3	X	X	X			X	X
<b>Hawaii</b> HAW. REV. STAT. § 571-46	X	X	X			X	X
<b>Idaho</b> IDAHO CODE ANN. § 32-704 IDAHO CODE ANN. § 32-717 IDAHO CODE ANN. § 32-717B	X	X	X	X		X	X
<b>Illinois</b> 750 ILL. COMP. STAT. 5/601 750 ILL. COMP. STAT. 5/602 750 ILL. COMP. STAT. 5/602.1	X	X	X		X	X	X

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STATE	Statutory Factors**	Child's Wishes	Joint Custody Authorized	Presumption in Favor of Joint Custody	Cooperative Parent	Domestic Violence***	Attorney or GAL****
<b>Indiana</b> IND. CODE § 31-17-2-8 IND. CODE § 31-17-2-15 IND. CODE § 31-17-6-1	X	X	X			X	X
<b>Iowa</b> IOWA CODE § 598.12 IOWA CODE § 598.41	X	X	X		X	X	X
<b>Kansas</b> KAN. STAT. ANN. § 23-2219 KAN. STAT. ANN. § 23-3203 KAN. STAT. ANN. § 23-3206	X	X	X		X	X	X
<b>Kentucky</b> KY. REV. STAT. ANN. § 403.270	X	X	X			X	
<b>Louisiana</b> LA. CIV. CODE ANN. ART. 131 LA. CIV. CODE ANN. ART. 132 LA. CIV. CODE ANN. ART. 134 LA. REV. STAT. ANN. 9:345 LA. REV. STAT. ANN. 9:364	X	X	X	X		X	X
<b>Maine</b> ME. REV. STAT. TIT. 19-A § 1507 ME. REV. STAT. TIT. 19-A § 1653	X	X	X <sup>3</sup>		X	X	X
<b>Maryland</b> MD. CODE ANN. FAM. LAW § 9-101.1 MD. CODE ANN. FAM. LAW § 1-202 MD. CODE ANN. FAM. LAW § 5-203		X <sup>6</sup>	X			X	X
<b>Massachusetts</b> MASS. GEN. LAWS CH. 208 § 28 MASS. GEN. LAWS CH. 208 § 31 MASS. GEN. LAWS CH. 208 § 31A MASS. GEN. LAWS CH. 209C § 10 MASS. GEN. LAWS CH. 215 § 56A			X			X	X
<b>Michigan</b> MICH. COMP. LAWS § 722.23 MICH. COMP. LAWS § 722.24 MICH. COMP. LAWS § 722.26A	X	X	X		X	X	X
<b>Minnesota</b> MINN. STAT. § 518.17 MINN. STAT. § 518.165	X	X	X	X <sup>2</sup>	X	X	X
<b>Mississippi</b> MISS. CODE ANN. § 93-5-23 MISS. CODE ANN. § 93-5-24		X <sup>7</sup>	X	X <sup>2</sup>		X	X
<b>Missouri</b> MO. REV. STAT. § 452.375 MO. REV. STAT. § 452.385 MO. REV. STAT. § 452.410 MO. REV. STAT. § 452.423	X	X	X <sup>8</sup>		X	X	X
<b>Montana<sup>9</sup></b> MONT. CODE ANN. § 40-4-205 MONT. CODE ANN. § 40-4-212	X	X	X			X	X

**Chart 2: Custody Criteria\* (continued)**

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<b>Nebraska</b> NEB. REV. STAT. § 42-358 NEB. REV. STAT. § 42-364 NEB. REV. STAT. § 43-2923	X	X	X			X	X
<b>Nevada</b> NEV. REV. STAT. § 125.480	X	X <sup>9.5</sup>	X	X	X	X	
<b>New Hampshire</b> N.H. REV. STAT. ANN. § 461-A:6	X <sup>3</sup>	X	X		X	X	X
<b>New Jersey</b> N.J. STAT. ANN. § 9:2-4	X	X	X		X	X	X
<b>New Mexico</b> N.M. STAT. ANN. § 40-4-8 N.M. STAT. ANN. § 40-4-9 N.M. STAT. ANN. § 40-4-9.1	X	X	X	X	X	X	X
<b>New York</b> N.Y. DOM. REL. LAW § 240		X <sup>10</sup>				X	X
<b>North Carolina</b> N.C. GEN. STAT. § 50-13.1 N.C. GEN. STAT. § 50-13.2		X <sup>11</sup>	X			X	
<b>North Dakota</b> N.D. CENT. CODE § 14-09-06.2 N.D. CENT. CODE § 14-09-06.4	X	X	X		X	X	X
<b>Ohio</b> OHIO REV. CODE ANN. § 3109.04	X <sup>3</sup>	X	X <sup>12</sup>		X	X	X
<b>Oklahoma</b> OKLA. STAT. TIT. 43 § 109 OKLA. STAT. TIT. 43 § 112		X	X <sup>12</sup>		X	X	X
<b>Oregon</b> OR. REV. STAT. § 107.137	X	X <sup>13</sup>	X <sup>14</sup>		X	X	
<b>Pennsylvania</b> 23 PA. CONS. STAT. ANN. § 5328 23 PA. CONS. STAT. ANN. § 5334	X	X	X		X	X	X
<b>Rhode Island</b> R.I. GEN. LAWS § 15-5-16 R.I. GEN. LAWS § 15-5-16.2		X <sup>15</sup>	X		X <sup>15</sup>	X	X
<b>South Carolina</b> S.C. CODE ANN. § 63-3-530 S.C. CODE ANN. § 63-3-810 S.C. CODE ANN. § 63-15-30 S.C. CODE ANN. § 63-15-40		X	X			X	X
<b>South Dakota</b> S.D. CODIFIED LAWS § 25-4-45		X <sup>16</sup>	X			X	X
<b>Tennessee</b> TENN. CODE ANN. § 36-4-132 TENN. CODE ANN. § 36-6-101 TENN. CODE ANN. § 36-6-106	X	X	X	X <sup>12</sup>	X	X	X
<b>Texas</b> TEX. FAM. CODE ANN. § 107.002 TEX. FAM. CODE ANN. § 153		X <sup>18</sup>	X <sup>19</sup>	X		X	X
<b>Utah</b> UTAH CODE ANN. § 30-3-10 UTAH CODE ANN. § 30-3-10.02 UTAH CODE ANN. § 30-3-10.10 UTAH CODE ANN. § 30-3-11.2	X	X	X		X	X	X

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<b>Vermont</b> VT. STAT. ANN. TIT. 15 § 594; 665; 665A	X	X <sup>20</sup>	X		X	X	X
<b>Virginia</b> VA. CODE ANN. § 20-124.2; 20-124.3	X	X	X		X	X	X <sup>21</sup>
<b>Washington</b> WASH. REV. CODE § 26.09.013 WASH. REV. CODE § 26.09.187 WASH. REV. CODE § 26.09.220	X	X	X		X	X	X
<b>West Virginia</b> W. VA. CODE § 48-6-206 W. VA. CODE § 48-9-209 W. VA. CODE § 48-9-302	X	X	X		X	X	X
<b>Wisconsin</b> WIS. STAT. § 767.41 WIS. STAT. § 767.407	X	X	X	X	X	X	X
<b>Wyoming</b> WYO. STAT. ANN. § 20-2-201	X	X <sup>22</sup>	X		X	X	

\* The chart looks at child custody determinations during a divorce or separation. The statutes cited do not necessarily affect child custody decisions in other situations.

\*\* Although there is a statutory list of factors, the court may in its discretion consider other factors under the particular circumstances of the case.

\*\*\* The jurisdiction has enacted a statute permitting the consideration of domestic violence in conjunction with child custody. The statutes vary from making domestic violence a factor in custody determinations, to imposing presumptions against custody in batterers or imposing special procedural considerations in cases involving domestic violence.

\*\*\*\* This column indicates whether a state has statutory authority for appointment of a guardian *ad litem* or attorney for a child specifically in child custody cases.

1. By case law. *See, e.g., Naudit v. Haddock*, 882 So. 2d 364 (Ala. Civ. App. 2003).
2. There is a presumption that joint custody is in the best interest of the child if both parents request joint custody.
3. Does not use the term "child custody," but instead uses the terminology, such as "parental responsibilities and rights," "legal custodian," or other similar terminology.
4. Fla. Stat. § 61.13(2)(c)(2)—"The court shall order 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."
5. Domestic violence is not addressed in the statute but has been considered by courts as a factor in case law.
6. By case law. *See, e.g., Hild v. Hild*, 157 A.2d 442 (Md. 1960); *Wagner v. Wagner*, 674 A.2d 1 (Md. Ct. Spec. App. 1996); *Montgomery Cnty. Dep't of Soc. Services v. Sanders*, 381 A.2d 1154 (Md. Ct. Spec. App. 1977).
7. Factors considered in custody decisions are listed in case law. *See Albright v. Albright*, 437 So. 2d 1003, 1005 (Miss. 1983).
8. Public policy encourages participation of both parents in decisions and statute directs that "the court shall determine the custody arrangement which will best assure both parents participate in such decisions . . . so long as it is in the best interests of the child." This statute, however, does not create a presumption in favor of joint custody. *In re Marriage of Kroeger-Eberhart v. Eberhart*, 254 S.W.3d 38, 2007 Mo. App. LEXIS 1661 (Mo. Ct. App. 2007).
9. In Montana, the words "custody," "joint," "primary parent," or "visitation" are not used when referring to child custody. Parents are considered to have identical rights as to the child, but their parenting times may differ.
- 9.5. Nevada will consider a child's wishes, among other factors, if the child is of sufficient age and capacity to form an intelligent preference as to custody.
  10. By case law. *See Gant v. Higgins*, 203 A.D.2d 23 (N.Y. App. Div. 1994).
  11. By case law. *See, e.g., Harris v. Harris*, 115 N.C. 587 (1894); *Brooks v. Brooks*, 184 S.E.2d 417 (N.C. Ct. App. 1971).
  12. Uses the term "shared parenting."
  13. By case law. *See In re Marriage of Tuttle*, 660 P.2d 196 (Or. Ct. App. 1983).
  14. The court may only order joint custody if both agree to joint custody. The court may not order joint custody over the objection of either parent.
  15. By case law. *See, e.g., Africano v. Castelli*, 837 A.2d 721 (R.I. 2003); *Pettinato v. Pettinato*, 582 A.2d 909 (R.I. 1990).
  16. *See Price v. Price*, 611 N.W.2d 425 (S.D. 2000).
  17. It is presumed that joint custody is in the best interest of a minor child where the parents have agreed to joint custody or agree to joint custody in open court.
  18. By case law. *See Vazquez v. Vazquez*, 292 S.W.3d 80 (Tex. App. 2007).
  19. Texas uses the language "sole or joint managing conservator" rather than "sole or joint custody."
  20. By case law. The court is not required or forbidden to consider the preference of the child. *See Cameron v. Cameron*, 398 A.2d 294 (Vt. 1979).
  21. Discussed further in *Verrocchio v. Verrocchio*, 429 S.E.2d 482 (Va. Ct. App. 1993).
  22. By case law. *See JRS v. GMS*, 90 P.3d 718 (Wyo. 2004).