

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

SENATE BILL 901

5 By: Senators J. Woods, J. English
6 By: Representatives Lowery, Alexander, Neal
7

For An Act To Be Entitled

8
9 AN ACT CONCERNING CHILD CUSTODY PRESUMPTIONS IN
10 DIVORCE CASES; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 CONCERNING CHILD CUSTODY PRESUMPTIONS IN
14 DIVORCE CASES.
15
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 9-13-101(a)(1)(A), concerning awarding
21 child custody, is amended to read as follows:

22 (a)(1)(A)(i) In an action for divorce, the award of custody of a child
23 of the marriage shall be made without regard to the sex of a parent but
24 solely in accordance with the welfare and best interest of the child.

25 (ii) In determining the best interest of the child,
26 the court may consider the preferences of the child if the child is of a
27 sufficient age and mental capacity to reason, regardless of chronological
28 age.

29 (iii) The circuit court shall presume that it is in
30 the best interest of the child to award joint custody to the parents unless
31 the circuit court determines by a preponderance of the evidence that the
32 awarding of joint custody is not in the best interest of the child.

33 (iv) In determining whether awarding joint custody
34 is in the best interest of the child, the circuit court may consider without
35 limitation a parent's:

36 (a) Demonstrated unwillingness or inability to



1 discharge his or her parental responsibilities towards the child;

2 (b) Willful abandonment of the child;

3 (c) Attempt to subject the child to any form
4 of child maltreatment;

5 (d) Failure to care properly for the child,
6 resulting in degradation of the physical health, emotional health, or general
7 well-being of the child; or

8 (e) Demonstrated refusal to reasonably
9 cooperate with the other parent to serve the best interest of the child.

10
11 SECTION 2. Arkansas Code § 9-13-101(a), concerning awarding child
12 custody, is amended to add an additional subdivision to read as follows:

13 (5) As used in this section, "joint custody" means the
14 approximate and reasonable equal division of time with the child by both
15 parents individually as determined by an agreement between the parents with
16 supervision by the court or by the court alone.

17
18 SECTION 3. Arkansas Code § 9-13-101(b)(1)(A), concerning joint
19 custody, is amended to read as follows:

20 (b)(1)(A)(i) When in the best ~~interests~~ interest of a child, custody
21 shall be awarded in such a way so as to assure the frequent and continuing
22 contact of the child with both parents consistent with subdivision (a)(1)(A)
23 of this section.

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

27 (b) If joint custody is awarded, both parents
28 shall be responsible for developing and adhering to a court-approved
29 parenting plan.

30 (iii) The circuit court may order mediators,
31 attorneys ad litem, or other court-appointed professionals to assist with the
32 development of a parenting plan when:

33 (a) The parents have failed to develop a
34 court-approved parenting plan;

35 (b) It is necessary to provide an environment
36 in which the parents can work together for the best interest of the child;

1 (c) The parents are unable to resolve a
2 conflict concerning the child; or

3 (d) The circuit court determines necessary.

4 (iv) If, at any time, the circuit court finds by a
5 preponderance of the evidence that one (1) parent demonstrates a pattern of
6 willfully creating conflict in an attempt to disrupt a current or pending
7 joint-custody arrangement, the circuit court may deem such behavior as a
8 material change of circumstances and may issue an order of primary custody to
9 the nondisruptive parent.

10 (v) If, at any time, the circuit court finds by a
11 preponderance of the evidence that one (1) parent demonstrates an
12 unwillingness to comply reasonably with the terms of a court-approved
13 parenting plan, the circuit court may issue an order of primary custody to
14 the complying parent.

15 (vi) Child support under a joint custody order is
16 issued at the discretion of the court and shall:

17 (a) Be consistent with Administrative Order
18 No. 10 - Child Support Guidelines; or

19 (b) Deviate from Administrative Order No. 10 -
20 Child Support Guidelines as permitted by the rule.

21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36