

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

HOUSE BILL 1325

5 By: Representative Lowery  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING CUSTODY OF A  
9 CHILD; AND FOR OTHER PURPOSES.

### Subtitle

12 TO AMEND THE LAW CONCERNING CUSTODY OF A  
13 CHILD.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code § 9-13-101(a)(1)(A), concerning the award of  
20 custody of a child, is amended to add an additional subdivision to read as  
21 follows:

22 (iv) There is a rebuttable presumption that joint  
23 custody is in the best interest of the child.  
24

25 SECTION 2. Arkansas Code § 9-13-101(b), concerning an award of custody  
26 of a child, is amended to read as follows:

27 (b)(1)(A)(i) When in the best interest of a child, custody shall be  
28 awarded in such a way so as to assure the frequent and continuing contact of  
29 the child with both parents consistent with subdivision (a)(1)(A) of this  
30 section.

31 (ii) To this effect, the circuit court may consider  
32 awarding joint custody of a child to the parents in making an order for  
33 custody.

34 (iii) If, at any time, the circuit court finds by a  
35 preponderance of the evidence that one (1) parent demonstrates a pattern of  
36 willfully creating conflict in an attempt to disrupt a current or pending



1 joint-custody arrangement, the circuit court may deem such behavior as a  
 2 material change of circumstances and may change a joint custody order to an  
 3 order of primary custody to the nondisruptive parent.

4 (iv) In determining custody of the child, the court  
 5 shall consider the following factors:

6 (a) The preference of the child as to his or  
 7 her custody if appropriate and with due consideration given to the influence  
 8 that a parent of the child may have over the preference of the child;

9 (b) The preference of each parent of the  
 10 child;

11 (c) The interaction and relationship of the  
 12 child with his or her parent, sibling, and any other person who may  
 13 significantly influence the best interest of the child;

14 (d) The motivation of an adult who is  
 15 participating in the custody proceeding;

16 (e) The adjustment and continuing proximity of  
 17 the child to his or her home, school, and community;

18 (f) The mental and physical health of any  
 19 individual involved in the custody proceeding;

20 (g) Information, records, and evidence of  
 21 domestic violence; and

22 (h) The likelihood a parent will allow and  
 23 support the child having frequent, meaningful, and continuing contact with  
 24 the other parent.

25 (v)(a) A parent who is not granted sole custody or  
 26 joint custody of the child is entitled to reasonable visitation with the  
 27 child unless the court finds after a hearing that visitation would seriously  
 28 endanger the physical, mental, moral, or emotional health of the child.

29 (b) At the request of either party, the court  
 30 shall issue an order that:

31 (1) Takes into consideration the  
 32 developmental age of the child; and

33 (2) Is specific as to the frequency,  
 34 timing, duration, condition, and method of scheduling visitation with the  
 35 parent who is not granted sole custody or joint custody with the child.

36 (vi) Child support under a joint custody order is

1 issued at the discretion of the court and shall:

2 (a) Be consistent with Administrative Order  
 3 No. 10 – ~~Arkansas~~ Child Support Guidelines; or

4 (b) Deviate from Administrative Order No. 10 –  
 5 ~~Arkansas~~ Child Support Guidelines as permitted by the rule.

6 (B) If a grandparent meets the requirements of subdivision  
 7 (a)(1) and subdivision (a)(2)(B) of this section and is a party to the  
 8 proceedings, the circuit court may consider the continuing contact between  
 9 the child and a grandparent who is a party, and the circuit court may  
 10 consider orders to assure the continuing contact between the grandparent and  
 11 the child.

12 (2) To this effect, in making an order for custody, the court  
 13 may consider, among other facts, which party is more likely to allow the  
 14 child or children frequent and continuing contact with the noncustodial  
 15 parent and the noncustodial grandparent who meets the requirements of  
 16 subdivision (a)(1) and subdivision (a)(2)(B) of this section.

17 (3) If a deviation from joint custody is warranted, the court  
 18 shall construct a parenting time schedule that:

19 (A) Is consistent with the best interest of the child; and

20 (B) Maximizes the amount of time that each parent has with  
 21 the child.

22 (4) There is a rebuttable presumption that joint custody is in  
 23 the best interest of the child if the court orders a modification of a child  
 24 custody decree.

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