

APPENDIX B - Child Custody Best Interest Statutes – Domestic Violence



Child Custody Best Interest Statutes - Domestic Violence

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CHART KEY:

* Indicates a jurisdiction that has a rebuttable presumption that sole or joint custody is not in the best interest of the child and should not be awarded to the perpetrator of domestic violence.

State statutes are constantly changing. Please independently verify the information found in this document. If you have a correction or update, please contact us.

State/Territory	Domestic Violence Specific Best Interest Factors
ALABAMA *	Ala. Code § 30-3-131 – Presumption against perpetrator of violence. A domestic violence determination creates a rebuttable presumption that it is detrimental to the child and not in the best interest of the child for the perpetrator to receive custody. The judge must also consider the impact of the domestic violence on the child. Ala. Code § 30-3-132 – Factors for court consideration. After the court finds a parent committed domestic violence they must consider; the safety and well-being of the child and of the parent who is the victim of family or domestic violence; the perpetrator's history of causing physical harm or injury; and if a parent is absent or relocates because of an act of domestic violence by the other parent it may not be a factor weighed against them in determining the custody or visitation. Ala. Code § 30-3-135 – Visitation by parent who committed violence. (a) A court may award visitation by a parent who committed domestic or family violence only if the court finds that adequate provision for the safety of the child and the parent who is a victim of domestic or family violence can be made. (b) In a visitation order, a court may take any of the following actions: (1) Order an exchange of the child to occur in a protected setting. (2) Order visitation supervised in a manner to be determined by the court. (3) Order the perpetrator of domestic or family violence to attend and complete to the satisfaction of the court, a program of intervention for perpetrators or other designated counseling as a condition of visitation. (4) Order the perpetrator of domestic or family violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding the visitation. (5) Order the perpetrator of domestic or family violence to pay a fee to defray the cost of supervised visitation. (6) Prohibit overnight visitation. (7) Require a bond from the perpetrator of domestic or family violence for the return and safety of the child.

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	(8) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of family or domestic violence, or other family or household member. (c) Whether or not visitation is allowed, the court may order the address of the child or the victim of family or domestic violence to be kept confidential. (d) The court may refer but shall not order an adult who is a victim of family or domestic violence to attend counseling relating to the victim's status or behavior as a victim, individually or with the perpetrator of domestic or family violence as a condition of receiving custody of a child or as a condition of visitation. (e) If a court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation.
ALASKA*	Alaska Stat. § 25.24.150 – Judgments for custody; supervised visitation. (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. (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. (i) If the court finds that both parents have a history of perpetrating domestic violence under (g) of this section, the court shall either

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	(1) award sole legal and physical custody to the parent who is less likely to continue to perpetrate the violence and require that the custodial parent complete a treatment program; or (2) if necessary to protect the welfare of the child, award sole legal or physical custody, or both, to a suitable third person if the person would not allow access to a violent parent except as ordered by the court. (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. (k) The fact that an abused parent suffers from the effects of the abuse does not constitute a basis for denying custody to the abused parent unless the court finds that the effects of the domestic violence are so severe that they render the parent unable to safely parent the child.
AMERICAN SAMOA*	A.S.C.A. § 47.0301 – Presumptions concerning custody and residence of child. 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 that it is: (1) 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. (2) 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 Territory. A.S.C.A. § 47.0302 – Factors in determining custody and visitation.

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	(a) In addition to other factors that a court must 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 domestic or family violence: (1) 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. (2) The Court 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. (b) If a parent is absent or relocates because of an act of domestic or family violence by the other parent, the absence or relocation is not a factor that weighs against the parent in determining custody or visitation. (c) In every proceeding in which there is at issue the modification of an order for custody or visitation of a child, the finding that domestic or family violence has occurred since the last custody determination constitutes a finding of a change of circumstances. A.S.C.A. § 47.0303 – Conditions of visitation in cases involving domestic and family violence. (a) A court may award visitation by a parent who committed domestic or family violence only if the court finds that adequate provision for the safety of the child and the parent who is a victim of domestic or family violence can be made. (b) In a visitation order, a Court may: (1) Order an exchange of a child to occur in a protected setting. (2) Order visitation supervised by another person or agency. (3) Order the perpetrator of domestic or family violence to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or other designated counseling as a condition of the visitation. (4) Order the perpetrator of domestic or family violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding the visitation.

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	(5) Order the perpetrator of domestic or family violence to pay a fee to defray the costs of supervised visitation. (6) Prohibit overnight visitation. (7) Require a bond from the perpetrator of domestic or family violence for the return and safety of the child. (8) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of domestic or family violence, or other family or household member. (c) The Court may refer but shall not order an adult who is a victim of domestic or family violence to attend counseling relating to the victim's status or behavior as a victim, individually or with the perpetrator of domestic or family violence as a condition of receiving custody of a child or as a condition of visitation. (d) If a Court allows a family or household member to supervise visitation, the Court shall establish conditions to be followed during visitation.
ARIZONA*	A.R.S. § 25-403.03 – Domestic violence and child abuse. A. Notwithstanding subsection D of this section, joint legal decision-making shall not be awarded if the court makes a finding of the existence of significant domestic violence pursuant to <u>section 13-3601</u> or if the court finds by a preponderance of the evidence that there has been a significant history of domestic violence. 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. C. To determine if a person has committed an act of domestic violence the court, subject to the rules of evidence, shall consider all relevant factors including the following: 1. Findings from another court of competent jurisdiction. 2. Police reports. 3. Medical reports. 4. Records of the department of child safety. 5. Domestic violence shelter records.

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	6. School records. 7. Witness testimony. D. If the court determines that a parent who is seeking sole or joint legal decision-making has committed an act of domestic violence against the other parent, there is a rebuttable presumption that an award of sole or joint legal decision-making 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. For the purposes of this subsection, a person commits an act of domestic violence if that person does any of the following: 1. Intentionally, knowingly or recklessly causes or attempts to cause sexual assault or serious physical injury. 2. Places a person in reasonable apprehension of imminent serious physical injury to any person. 3. Engages in a pattern of behavior for which a court may issue an ex parte order to protect the other parent who is seeking child custody or to protect the child and the child's siblings. E. To determine if the parent has rebutted the presumption the court shall consider all of the following: 1. Whether the parent has demonstrated that being awarded sole or joint legal decision-making or substantially equal parenting time 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. F. If the court finds that a parent has committed an act of domestic violence, that parent has the burden of proving to the court's satisfaction that parenting time will not endanger the child or significantly impair the child's emotional development. If the parent meets this burden to the court's satisfaction, the court shall place conditions on parenting time that best protect the child and the other parent from further harm. The court may:

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	1. Order that an exchange of the child must occur in a protected setting as specified by the court. 2. Order that an agency specified by the court must supervise parenting time. If the court allows a family or household member to supervise parenting time, the court shall establish conditions that this person must follow during parenting time. 3. Order the parent who committed the act of domestic violence to attend and complete, to the court's satisfaction, a program of intervention for perpetrators of domestic violence and any other counseling the court orders. 4. Order the parent who committed the act of domestic violence to abstain from possessing or consuming alcohol or controlled substances during parenting time and for twenty-four hours before parenting time. 5. Order the parent who committed the act of domestic violence to pay a fee for the costs of supervised parenting time. 6. Prohibit overnight parenting time. 7. Require a bond from the parent who committed the act of domestic violence for the child's safe return. 8. Order that the address of the child and the other parent remain confidential. 9. Impose any other condition that the court determines is necessary to protect the child, the other parent and any other family or household member. G. The court shall not order joint counseling between a victim and the perpetrator of domestic violence. The court may provide a victim with written information about available community resources related to domestic violence. H. The court may request or order the services of the department of child safety if the court believes that a child may be the victim of child abuse or neglect as defined in <u>section 8-201</u>. I. In determining whether the absence or relocation of a parent shall be weighed against that parent in determining legal decision-making or parenting time, the court may consider whether the absence or relocation was caused by an act of domestic violence by the other parent.
ARKANSAS*	A.C.A. § 9-13-101 – Award of custody – Definition.

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	(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 directive pursuant to this section. (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.
CALIFORNIA*	Cal. Fam. Code. § 3044 – Rebuttable presumption from showing that person seeking custody has perpetrated domestic violence; Factors; Finding; Evidence (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child’s siblings, or against a person in subparagraph (A) of paragraph (2) of subdivision (a) of <u>Section 3011</u> with whom the party has a relationship, 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 <u>Sections 3011</u> and <u>3020</u>. This presumption may only be rebutted by a preponderance of the evidence. (b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in <u>Section 3020</u>. (1) 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 pursuant to <u>Sections 3011</u> and <u>3020</u>. 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 <u>Section 3020</u>, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of <u>Section 3040</u>, may not be used to rebut the presumption, in whole or in part. (2) Additional factors:

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	(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of <u>Section 1203.097 of the Penal Code</u>. (B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate. (C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate. (D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole. (E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions. (F) The perpetrator of domestic violence has committed further acts of domestic violence. (G) The court has determined, pursuant to <u>Section 6322.5</u>, that the perpetrator is a restrained person in possession or control of a firearm or ammunition in violation of <u>Section 6389</u>. (c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to <u>Section 6320</u> to protect the other party seeking custody of the child or to protect the child and the child's siblings. (d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in <u>Section 6211</u> and of abuse contained in <u>Section 6203</u>, including, but not limited to, a crime described in subdivision (e) of <u>Section 243</u> of, or <u>Section 261, 273.5, 422, or 646.9</u> of, or former <u>Section 262</u> of, the <u>Penal Code</u>. (2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

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	(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties. (f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in <u>Jaime G. v. H.L. (2018) 25 Cal.App.5th 794</u>, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b). (2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in <u>Section 3020</u>. (g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with <u>Sections 3011</u> and <u>3020</u>. (h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case. (i) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.
COLORADO*	Colo. Rev. Stat. § 14-10-124 – Best interests of the child. (4) (a) When a claim of child abuse or neglect, domestic violence, or sexual assault where there is also a claim that the child was conceived as a result of the sexual assault has been made to the court, or the court has reason to believe that a party has committed child abuse or neglect, domestic violence, or sexual assault that resulted in the conception of the child,

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	prior to allocating parental responsibilities, including parenting time and decision-making responsibility, and prior to considering the factors set forth in paragraphs (a) and (b) of subsection (1.5) of this section, the court shall consider the following factors: (I) Whether one of the parties has committed an act of child abuse or neglect as defined in <u>section 18-6-401, C.R.S.</u>, or as defined under the law of any state, which factor must be supported by a preponderance of the evidence. If the court finds that one of the parties has committed child abuse or neglect, then it shall not be in the best interests of the child to allocate mutual decision-making with respect to any issue over the objection of the other party or the legal representative of the child. (II) Whether one of the parties has committed an act of domestic violence, has engaged in a pattern of domestic violence, or has a history of domestic violence, which factor must be supported by a preponderance of the evidence. If the court finds by a preponderance of the evidence that one of the parties has committed domestic violence: (A) It shall not be in the best interests of the child to allocate mutual decision-making responsibility over the objection of the other party or the legal representative of the child, unless the court finds that there is credible evidence of the ability of the parties to make decisions cooperatively in the best interest of the child in a manner that is safe for the abused party and the child; and (B) The court shall not appoint a parenting coordinator solely to ensure that mutual decision-making can be accomplished. (III) Whether one of the parties has committed an act of sexual assault resulting in the conception of the child, which factor must be supported by a preponderance of the evidence. If the court finds by a preponderance of the evidence that one of the parties has committed sexual assault and the child was conceived as a result of the sexual assault, there is a rebuttable presumption that it is not in the best interests of the child to allocate sole or split decision-making authority to the party found to have committed sexual assault or to allocate mutual decision-making between a party found to have committed sexual assault and the party who was sexually assaulted with respect to any issue. (IV) If one of the parties is found by a preponderance of the evidence to have committed sexual assault resulting in the conception of the child, whether it is in the best interests of the child to prohibit or limit the parenting time of that party with the child.

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	(b) The court shall consider the additional factors set forth in paragraphs (a) and (b) of subsection (1.5) of this section in light of any finding of child abuse or neglect, domestic violence, or sexual assault resulting in the conception of a child pursuant to this subsection (4). (c) If a party is absent or leaves home because of an act or threatened act of domestic violence committed by the other party, such absence or leaving shall not be a factor in determining the best interests of the child. (d) When the court finds by a preponderance of the evidence that one of the parties has committed child abuse or neglect, domestic violence, or sexual assault resulting in the conception of the child, the court shall consider, as the primary concern, the safety and well-being of the child and the abused party. (e) When the court finds by a preponderance of the evidence that one of the parties has committed child abuse or neglect, domestic violence, or sexual assault resulting in the conception of the child, in formulating or approving a parenting plan, the court shall consider conditions on parenting time that ensure the safety of the child and abused party, giving paramount consideration to the safety and the physical, mental, and emotional conditions and needs of the child and abused party. In addition to any provisions set forth in subsection (7) of this section that are appropriate, the parenting plan in these cases may include, but is not limited to, the following provisions: (I) An order limiting contact between the parties to contact that the court deems is safe and that minimizes unnecessary communication between the parties; (II) An order that requires the exchange of the child for parenting time to occur in a protected setting determined by the court; (III) An order for supervised parenting time; (IV) An order restricting overnight parenting time; (V) An order that restricts the party who has committed domestic violence, sexual assault resulting in the conception of the child, or child abuse or neglect from possessing or consuming alcohol or controlled substances during parenting time or for twenty-four hours prior to the commencement of parenting time; (VI) An order directing that the address of the child or of any party remain confidential;

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	(VII) An order that imposes any other condition on one or more parties that the court determines is necessary to protect the child, another party, or any other family or household member of a party; and (VIII) An order that requires child support payments to be made through the child support registry to avoid the need for any related contact between the parties and an order that the payments be treated as a nondisclosure of information case. (f) When the court finds by a preponderance of the evidence that one of the parties has committed domestic violence, the court may order the party to submit to a domestic violence evaluation. If the court determines, based upon the results of the evaluation, that treatment is appropriate, the court may order the party to participate in domestic violence treatment. At any time, the court may require a subsequent evaluation to determine whether additional treatment is necessary. If the court awards parenting time to a party who has been ordered to participate in domestic violence treatment, the court may order the party to obtain a report from the treatment provider concerning the party's progress in treatment and addressing any ongoing safety concerns regarding the party's parenting time. The court may order the party who has committed domestic violence to pay the costs of the domestic violence evaluations and treatment.
CONNECTICUT	Conn. Gen. Stat. § 46b-56 – 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. (c) (15) the effect on the child of the actions of an abuser, if any domestic violence, as defined in <u>section 46b-1</u>, has occurred between the parents or between a parent and another individual or the child; (16) whether the child or a sibling of the child has been abused or neglected, as defined respectively in <u>section 46b-120</u>;
DELAWARE*	13 Del. C. § 705A – Rebuttable presumption against custody or residence of minor child to perpetrator of domestic violence. (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.

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	(b) Notwithstanding other provisions of this title, there shall be a rebuttable presumption that no child shall primarily reside with a perpetrator of domestic violence. (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. 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. (d) In those cases in which both parents are perpetrators of domestic violence, the case shall be referred to the Division of Family Services of the Department of Services for Children, Youth and their Families for investigation and presentation of findings. Upon consideration of such presentation, and all other relevant evidence, including but not limited to, evidence about the history of abuse between the parents and evidence regarding whether 1 parent has been the primary aggressor in the household, the court shall decide custody and residence pursuant to the best interests of the child. (e) Notwithstanding other provisions of this title, including the rebuttable presumption set forth in this section, where a court has determined by at least a preponderance of the evidence, that the perpetrator of domestic violence has subjected any child to death or near death injuries, as that term is defined in <u>§ 301 of Title 31</u>, the court shall not award joint or sole custody to the perpetrator of domestic violence, nor permit the perpetrator of domestic violence to exercise custodial or residential responsibilities, nor permit any visitation between the perpetrator of domestic violence and any child, without considering expert testimony from a certified mental health professional that such a custodial, residential or visitation arrangement is in the child's best interests. If such a custodial, residential or

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	visitation arrangement is determined to be in the child's best interests, the court shall then apply the remaining factors set forth in subsection (c) of this section. provided for in Chapter 7A of this title
DISTRICT OF COLUMBIA*	D.C. Code § 16-914 – Custody of children. (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. (k) 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.
FLORIDA*	Fla Stat. § 61.13 – Support of children; parenting and time-sharing; powers of court. (2) (c) The court shall determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, except that

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	modification of a parenting plan and time-sharing schedule requires a showing of a substantial and material change of circumstances. 1. It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. Unless otherwise provided in this section or agreed to by the parties, there is a rebuttable presumption that equal time-sharing of a minor child is in the best interests of the minor child. To rebut this presumption, a party must prove by a preponderance of the evidence that equal time-sharing is not in the best interests of the minor child. Except when a time-sharing schedule is agreed to by the parties and approved by the court, the court must evaluate all of the factors set forth in subsection (3) and make specific written findings of fact when creating or modifying a time-sharing schedule. 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. In determining detriment to the child, the court shall consider: a. Evidence of domestic violence, as defined in <u>s. 741.28</u>; b. Whether either parent has or has had reasonable cause to believe that he or she or his or her minor child or children are or have been in imminent danger of becoming victims of an act of domestic violence as defined in <u>s. 741.28</u> or sexual violence as defined in <u>s. 784.046(1)(c)</u> by the other parent against the parent or against the child or children whom the parents share in common regardless of whether a cause of action has been brought or is currently pending in the court; c. Whether either parent has or has had reasonable cause to believe that his or her minor child or children are or have been in imminent danger of becoming victims of an act of abuse, abandonment, or neglect, as those terms are defined in <u>s. 39.01</u>, by the other parent against the child or children whom the parents share in common regardless of whether a cause of action has been brought or is currently pending in the court; and d. Any other relevant factors. 3. The following evidence creates a rebuttable presumption that shared parental responsibility is detrimental to the child: a. A parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in <u>s. 741.28</u> and chapter 775;

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	b. A parent meets the criteria of <u>s. 39.806(1)(d)</u>; or c. A parent has been convicted of or had adjudication withheld for an offense enumerated in <u>s. 943.0435(1)(h)</u> 1.a., and at the time of the offense: (I) The parent was 18 years of age or older. (II) The victim was under 18 years of age or the parent believed the victim to be under 18 years of age. 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.
GEORGIA	O.C.G.A. § 19-9-3 – Establishment and review of child custody and visitation. (a)(4) 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; (C) If a parent is absent or relocates because of an act of domestic violence by the other parent, such absence or relocation for a reasonable period of time in the circumstances shall not be deemed an abandonment of the child for the purposes of custody determination; and

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	(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 <u>Code Section 19-9-7</u>.
GUAM*	19 G.C.A. § 8404 – Criteria and Procedure in Awarding Custody. (9) It is legislative policy that children should not be exposed to family violence because, even when they are not themselves physically assaulted, they suffer deep and lasting emotional effects from exposure to family violence; and (10) The Court may award visitation or custody to a parent who committed family violence only if the Court finds that adequate provision for the safety of the child and the parent who is a victim of family violence can be made; and (11) In every proceeding in which there is at issue the modification of an order for custody or visitation of a child, the finding that family violence has occurred since the last custody or visitation determination constitutes a finding of a change of circumstances; and (12) In a custody or visitation order, a Court may: (A) order an exchange of a child to occur in a protected setting; (B) order visitation supervised by another person or agency; (C) order perpetrator(s) of family violence to attend and complete, to the satisfaction of the Court, a program of intervention for perpetrators or other designated counseling as a condition of the visitation; (D) order either parent or other party to a custody or visitation order to abstain from consumption of alcohol or other intoxicants during the visitation and for twenty-four (24) hours preceding the visitation; (E) order perpetrator(s) of family violence to pay a fee to defray the costs of supervised visitation, or to pay for the services of a guardian ad litem appointed by the court; (F) prohibit overnight visitation; (G) require a bond from perpetrator(s) of family violence for the return and safety of the child; or (H) impose any other condition that is deemed necessary to provide for the safety of a child, a victim of family violence, or other family or household member.

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	(13) Whether or not visitation is allowed, the Court may order the address of a child or a victim to be kept confidential. (14) If the Court allows a family or household member to supervise visitation, the Court may establish conditions to be followed during visitation. (15) In addition to other factors that the Court must 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 that family violence has occurred: (A) the court shall consider as primary the safety and well-being of the child(ren) and of a parent or guardian who is the victim of family violence; and (B) the court shall consider the perpetrator's history of causing or attempting to cause bodily injury to another family or household member; or placing a family or household member in fear of bodily injury. (16) If a parent or guardian is absent or relocates because of an act of family violence by the other parent, the absence or relocation is not a factor that weighs against the parent or guardian in determining custody or visitation, so long as the child(ren) are not removed from Guam without prior Court authorization. 7 G.C.A. § 39207 – Inconvenient Forum. (b) Before determining whether it is an inconvenient forum, the Superior Court of Guam shall consider whether it is appropriate for a court of another State to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including: (1) whether domestic violence has occurred and is likely to continue in the future and which State could best protect the parties and the child;
HAWAII*	Haw. Rev. Stat. Ann. § 571-46 – Criteria and procedure in awarding custody and visitation; best interest of the child. (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

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	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: (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; (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; and (C) If a parent is absent or relocates because of an act of family violence by the other parent, the absence or relocation shall not be a factor that weighs against the parent in determining custody or visitation; (10) A court may award visitation to a parent who has committed family violence only if the court finds that adequate provision can be made for the physical safety and psychological well-being of the child and for the safety of the parent who is a victim of family violence; (11) In a visitation order, a court may: (A) Order an exchange of a child to occur in a protected setting; (B) Order visitation supervised by another person or agency; (C) Order the perpetrator of family violence to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or other designated counseling as a condition of the visitation; (D) Order the perpetrator of family violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and for twenty-four hours preceding the visitation; (E) Order the perpetrator of family violence to pay a fee to defray the costs of supervised visitation; (F) Prohibit overnight visitation; (G) Require a bond from the perpetrator of family violence for the return and safety of the child. In determining the amount of the bond, the court shall consider the financial circumstances of the perpetrator of family violence; (H) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of family violence, or other family or household member; and

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	(I) Order the address of the child and the victim to be kept confidential; (12) The court may refer but shall not order an adult who is a victim of family violence to attend, either individually or with the perpetrator of the family violence, counseling relating to the victim's status or behavior as a victim as a condition of receiving custody of a child or as a condition of visitation; (13) If a court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation; (14) A supervised visitation center shall provide a secure setting and specialized procedures for supervised visitation and the transfer of children for visitation and supervision by a person trained in security and the avoidance of family violence; (15) The court may include in visitation awarded pursuant to this section visitation by electronic communication provided that the court shall additionally consider the potential for abuse or misuse of the electronic communication, including the equipment used for the communication, by the person seeking visitation or by persons who may be present during the visitation or have access to the communication or equipment; whether the person seeking visitation has previously violated a temporary restraining order or protective order; and whether adequate provision can be made for the physical safety and psychological well-being of the child and for the safety of the custodial parent. (16) The court may set conditions for visitation by electronic communication under paragraph (15), including visitation supervised by another person or occurring in a protected setting. Visitation by electronic communication shall not be used to: (A) Replace or substitute an award of custody or physical visitation except where: (i) Circumstances exist that make a parent seeking visitation unable to participate in physical visitation, including military deployment; or (ii) Physical visitation may subject the child to physical or extreme psychological harm; or (B) Justify or support the relocation of a custodial parent; and (17) Notwithstanding any provision to the contrary, no natural parent shall be granted custody of or visitation with a child if the natural parent has been convicted in a court of competent jurisdiction in any state of rape or sexual assault and the child was conceived as a result of that offense; provided that: (A) A denial of custody or visitation under this paragraph shall not affect the obligation of the convicted natural parent to support the child;

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	(B) The court may order the convicted natural parent to pay child support; (C) This paragraph shall not apply if subsequent to the date of conviction, the convicted natural parent and custodial natural parent cohabitate and establish a mutual custodial environment for the child; and (D) A custodial natural parent may petition the court to grant the convicted natural parent custody and visitation denied pursuant to this paragraph, and upon such petition the court may grant custody and visitation to the convicted natural parent where it is in the best interest of the child.
IDAHO*	Idaho Code Ann. § 32-717B – Joint custody. (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 <u>section 39-6303, Idaho Code</u>. Idaho Code Ann. § 18-4506 – Child custody interference defined – Defenses – Punishment. 2. It shall be an affirmative defense to a violation of the provisions of subsection 1. of this section that: (a) The action is taken to protect the child from imminent physical harm; (b) The action is taken by a parent fleeing from imminent physical harm to himself; (c) The action is consented to by the lawful custodian of the child; or (d) The child is returned within twenty-four (24) hours after expiration of an authorized visitation privilege.
ILLINOIS	750 ILCS § 5/602.7 – Allocation of parental responsibilities: parenting time. (11) the physical violence or threat of physical violence by the child’s parent directed against the child or other member of the child’s household;

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	(14) the occurrence of abuse against the child or other member of the child's household;
INDIANA	Ind. Code Ann. § 31-14-13-2 – Custody determination – Best interests of child. The court shall consider all relevant factors, including the following: (7) Evidence of a pattern of domestic or family violence by either parent. Ind. Code Ann. § 31-17-2-8 – Factors considered – Standard. The court shall consider all relevant factors, including the following: (7) Evidence of a pattern of domestic or family violence by either parent.
IOWA *	Iowa Code § 598.41 – Custody of Children. 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. 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. 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. 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

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	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. e. Unless otherwise ordered by the court in the custody decree, both parents shall have legal access to information concerning the child, including but not limited to medical, educational and law enforcement records. 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. 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. 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. d. Before ruling upon the joint custody petition in these cases, unless the court determines that a history of domestic abuse exists as specified in subsection 3, paragraph “j”, or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, the court may require the parties to participate in custody mediation to determine whether joint custody is in the best interest of the child. The court may require the child’s participation in the mediation insofar as the court determines the child’s participation is advisable. e. The costs of custody mediation shall be paid in full or in part by the parties and taxed as court costs.
KANSAS	Kan. Stat. Ann. § 23-3203 – Factors considered in determination of child custody, residency and parenting time. (a)(9) Evidence of domestic abuse, including, but not limited to:

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	(A) A pattern or history of physically or emotionally abusive behavior or threat thereof used by one person to gain or maintain domination and control over an intimate partner or household member; or (B) An act of domestic violence, stalking or sexual assault; (b) To aid in determining the issue of legal custody, residency and parenting time of a child, the court may order a parent to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and may order such parent to follow all recommendations made by such program.
KENTUCKY*	Ken. Rev. Stat. § 403-270 – Custodial Issues – Best interests of child shall determine – Rebuttable presumption that joint custody and equally shared parenting time is in child’s best interests – De facto custodian. (2)(g) A finding by the court that domestic violence and abuse, as defined in <u>KRS 403.720</u>, has been committed by one (1) of the parties against a child of the parties or against another party. The court shall determine the extent to which the domestic violence and abuse has affected the child and the child’s relationship to each party, with due consideration given to efforts made by a party toward the completion of any domestic violence treatment, counseling, or program; (3) The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.
LOUISIANA*	La. R.S. § 9:364 – Child custody; visitation. A. There is created a presumption that no parent who has a history of perpetrating family violence, as defined in <u>R.S. 9:362</u>, or domestic abuse, as defined in <u>R.S. 46:2132</u>, or has subjected any of his or her children, stepchildren, or any household member, as defined in <u>R.S. 46:2132</u>, to sexual abuse, as defined in <u>R.S. 14:403</u>, or has willingly permitted another to abuse any of his children or stepchildren, despite having the ability to prevent the abuse, shall be awarded sole or joint custody of children. The court may find a history of

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	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. B. The presumption shall be overcome only if the court finds all of the following by a preponderance of the evidence: (1) The perpetrating parent has successfully completed a court-monitored domestic abuse intervention program as defined in <u>R.S. 9:362</u>, or a treatment program designed for sexual abusers, after the last instance of abuse. (2) The perpetrating parent is not abusing alcohol or using illegal substances scheduled in <u>R.S. 40:964</u>. (3) The best interest of the child or children, considering the factors listed in <u>Civil Code Article 134</u>, requires the perpetrating parent's participation as a custodial parent because of the other parent's absence, mental illness, substance abuse, or other circumstance negatively affecting the child or children. C. The fact that the abused parent suffers from the effects of the abuse shall not be grounds for denying that parent custody. D. If the court finds that both parents have a history of perpetrating family violence, custody shall be awarded solely to the parent who is less likely to continue to perpetrate family violence. In such a case, the court shall mandate completion of a court-monitored domestic abuse intervention program by the custodial parent. If necessary to protect the welfare of the child, custody may be awarded to a suitable third person pursuant to <u>Civil Code Article 133</u>, provided that the person would not allow access to a violent parent except as ordered by the court. E. 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 pursuant to <u>R.S. 9:341</u>. F. If any court finds, by clear and convincing evidence, that a parent has sexually abused his or her child or children, the court shall prohibit all visitation and contact between the abusive parent and the children pursuant to <u>R.S. 9:341</u>. La. C.C. Art. § 134 – Factors in determining child's best interest. A. (8) The history of substance abuse, violence, or criminal activity of any party.

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	(9) The mental and physical health of each party. Evidence that an abused parent suffers from the effects of past abuse by the other parent shall not be grounds for denying that parent custody. (12) The willingness and ability of each party to facilitate and encourage a close and continuing relationship between the child and the other party, except when objectively substantial evidence of specific abusive, reckless, or illegal conduct has caused one party to have reasonable concerns for the child’s safety or well-being while in the care of the other party. B. In cases involving a history of committing family violence, as defined in <u>R.S. 9:362</u>, or domestic abuse, as defined in <u>R.S. 46:2132</u>, including sexual abuse, as defined in <u>R.S. 14:403(A)(4)(b)</u>, whether or not a party has sought relief under any applicable law, the court shall determine an award of custody or visitation in accordance with <u>R.S. 9:341</u> and 364. The court may only find a history of committing 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.
MAINE*	19-A M.R.S. § 1653 – Parental rights and responsibilities. 3. 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; M. The existence of any history of child abuse by a parent; N. All other factors having a reasonable bearing on the physical and psychological well-being of the child; O. A parent’s prior willful misuse of the protection from abuse process in former chapter 101 or chapter 103 in order to gain tactical advantage in a proceeding involving the determination of parental rights and responsibilities of a minor child. Such willful misuse may be considered only if established by clear and convincing evidence and if it is further

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	found by clear and convincing evidence that, in the particular circumstances of the parents and child, that willful misuse tends to show that the acting parent will in the future have a lessened ability and willingness to cooperate and work with the other parent in their shared responsibilities for the child. The court shall articulate findings of fact whenever relying upon this factor as part of its determination of a child's best interest. The voluntary dismissal of a protection from abuse petition may not, taken alone, be treated as evidence of the willful misuse of the protection from abuse process; 5-A. Effect of protective order. Although the court shall consider the fact that a protective order was issued under former chapter 101 or chapter 103, the court shall determine the proper award of parental rights and responsibilities and award of rights of contact de novo and may not use as precedent the award of parental rights and responsibilities and rights of contact included in the protective order. 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. B. In an order of parental rights and responsibilities, a court may: (1) Order an exchange of a child to occur in a protected setting; (2) Order contact to be supervised by another person or agency; (3) Order the parent who has committed domestic abuse to attend and complete to the satisfaction of the court a domestic abuse intervention program or other designated counseling as a condition of the contact; (4) Order either parent to abstain from possession or consumption of alcohol or controlled substances, or both, during the visitation and for 24 hours preceding the contact;

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	(5) Order the parent who has committed domestic abuse to pay a fee to defray the costs of supervised contact; (6) Prohibit overnight parent-child contact; and (7) Impose any other condition that is determined necessary to provide for the safety of the child, the victim of domestic abuse or any other family or household member. C. The court may require security from the parent who has committed domestic abuse for the return and safety of the child. D. The court may order the address of the child and the victim to be kept confidential. E. The court may not order a victim of domestic abuse to attend counseling with the parent who has committed domestic abuse. F. If a court allows a family or household member to supervise parent-child contact, the court shall establish conditions to be followed during that contact. Conditions include but are not limited to: (1) Minimizing circumstances when the family of the parent who has committed domestic abuse would be supervising visits; (2) Ensuring that contact does not damage the relationship with the parent with whom the child has primary physical residence; (3) Ensuring the safety and well-being of the child; and (4) Requiring that supervision is provided by a person who is physically and mentally capable of supervising a visit and who does not have a criminal history or history of abuse or neglect. G. Fees set forth in this subsection incurred by the parent who has committed domestic abuse may not be considered as a mitigating factor reducing that parent's child support obligation. H. In cases involving past or current allegations of domestic abuse between the parents, if the court orders an assessment or evaluation that will include providing court recommendations regarding the award of parental rights and responsibilities or conditions of parent-child contact that are in the best interest of the child from a person other than a guardian ad litem appointed under Title 4, section 1554, subsection 1, the court may appoint only a licensed clinical social worker, psychologist or psychiatrist who has training and demonstrated expertise on at least the following topics:

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	(1) The domestic abuse tactics affecting adult and child safety after separation of the parents; (2) The effects of domestic abuse and violence on children and conditions that support resilience; (3) Best practices for recognizing, asking about and assessing the effects of domestic abuse on the parent-child relationship; and (4) Methods for reducing post-separation abuse of the nonabusing parent and promoting child safety and security.
MARYLAND	Md. Rule 9-204.1 – Parenting Plans. (c)(5) The child’s physical and emotional security and protection from conflict and violence; Md. Fam. Law Code Ann. § 9-101.1. Abuse against certain individuals. (a) In this section, “abuse” has the meaning stated in § 4-501 of this article. (b) 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. (c) 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.
MASSACHUSETTS*	Mass. Ann. Laws. Title III, ch. 208 § 31A Custody and Visitation of Children with Abusive Parent

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	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 <u>section 13K of chapter 265</u>. 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. For the purposes of this section, the issuance of an order or orders under chapter 209A shall not in and of itself constitute a pattern or serious incident of abuse; nor shall an order or orders entered ex parte under said chapter 209A be admissible to show whether a pattern or serious incident of abuse has in fact occurred; provided, however, that an order or orders entered ex parte under said chapter 209A may be admissible for other purposes as the court may determine, other than showing whether a pattern or serious incident of abuse has in fact occurred; provided further, that the underlying facts upon which an order or orders under said chapter 209A was based may also form the basis for a finding by the probate and family court that a pattern or serious incident of abuse has occurred. If the court finds that a pattern or serious incident of abuse has occurred and issues a temporary or permanent custody order, the court shall within 90 days enter written findings of fact as to the effects of the abuse on the child, which findings demonstrate that such order

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	is in the furtherance of the child’s best interests and provides for the safety and well-being of the child. If ordering visitation to the abusive parent, the court shall provide for the safety and well-being of the child and the safety of the abused parent. The court may consider: (a)ordering an exchange of the child to occur in a protected setting or in the presence of an appropriate third party; (b)ordering visitation supervised by an appropriate third party, visitation center or agency; (c)ordering the abusive parent to attend and complete, to the satisfaction of the court, a certified batterer’s treatment program as a condition of visitation; (d)ordering the abusive parent to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding visitation; (e)ordering the abusive parent to pay the costs of supervised visitation; (f)prohibiting overnight visitation; (g)requiring a bond from the abusive parent for the return and safety of the child; (h)ordering an investigation or appointment of a guardian ad litem or attorney for the child; and (i)imposing any other condition that is deemed necessary to provide for the safety and well-being of the child and the safety of the abused parent. Nothing in this section shall be construed to affect the right of the parties to a hearing under the rules of domestic relations procedure or to affect the discretion of the probate and family court in the conduct of such hearings.
MICHIGAN	Mich. Comp. Laws § 722.23 “Best interest of the child” defined. (j)The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents. A court may not consider negatively for the purposes of this factor any reasonable action taken by a parent to protect a child or that parent from sexual assault or domestic violence by the child’s other parent. (k)Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

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MINNESOTA*	Minn. Stat. § 518.17 Custody and Support of Children on Judgment Subdivision 1. (a)(4) whether domestic abuse, as defined in section 518B.01, has occurred in the parents' or either parent's household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs; (11) except in cases in which domestic abuse as described in clause (4) has occurred, the disposition of each parent to support the child's relationship with the other parent and to encourage and permit frequent and continuing contact between the child and the other parent; (b)(9) 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 custody or joint 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. In determining whether the presumption is rebutted, the court shall consider the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs. Disagreement alone over whether to grant sole or joint custody does not constitute an inability of parents to cooperate in the rearing of their children as referenced in paragraph (a), clause (12).
MISSISSIPPI*	Miss. Code. Ann. § 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. (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

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	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. (ii) This presumption may only be rebutted by a preponderance of the evidence. (iii) In determining whether the presumption set forth in subsection (9) has been overcome, the court shall consider all of the following factors: 1. Whether the perpetrator of family 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 because of the other parent's absence, mental illness, substance abuse or such other circumstances which affect the best interest of the child or children; 2. Whether the perpetrator has successfully completed a batterer's treatment program; 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. If the perpetrator is on probation or parole, whether he or she is restrained by a protective order granted after a hearing, and whether he or she has complied with its terms and conditions; and 6. Whether the perpetrator of domestic violence has committed any further acts of domestic violence. (iv) The court shall make written findings to document how and why the presumption was or was not rebutted. to pay all court costs and reasonable attorney's fees incurred by the defending party in responding to such allegations. (d) (i) A court may award visitation by a parent who committed domestic or family violence only if the court finds that adequate provision for the safety of the child and the parent who is a victim of domestic or family violence can be made. (ii) In a visitation order, a court may take any of the following actions: 1. Order an exchange of the child to occur in a protected setting; 2. Order visitation supervised in a manner to be determined by the court;

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	3. Order the perpetrator of domestic or family violence to attend and complete to the satisfaction of the court a program of intervention for perpetrators or other designated counseling as a condition of visitation; 4. Order the perpetrator of domestic or family violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and for twenty-four (24) hours preceding the visitation; 5. Order the perpetrator of domestic or family violence to pay a fee to defray the cost of supervised visitation; 6. Prohibit overnight visitation; 7. Require a bond from the perpetrator of domestic or family violence for the return and safety of the child; or 8. Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of family or domestic violence, or other family or household member. (iii) Whether or not visitation is allowed, the court may order the address of the child or the victim of family or domestic violence to be kept confidential. (e) The court may refer but shall not order an adult who is a victim of family or domestic violence to attend counseling relating to the victim's status or behavior as a victim, individually or with the perpetrator of domestic or family violence, as a condition of receiving custody of a child or as a condition of visitation. (f) If a court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation.
MISSOURI*	Mo. Rev. Stat. § 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. 2. The court shall determine custody in accordance with the best interests of the child. There shall be a rebuttable presumption that an award of equal or approximately equal parenting time to each parent is in the best interests of the child. Such presumption is rebuttable only by a preponderance of the evidence in accordance with all relevant factors, including, but

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	not limited to, the factors contained in subdivisions (1) to (8) of this subsection. The presumption may be rebutted if the court finds that the parents have reached an agreement on all issues related to custody, or if the court finds that a pattern of domestic violence has occurred as set out in subdivision (6) of this subsection. When the parties have not reached an agreement on all issues related to custody, the court shall consider all relevant factors and enter written findings of fact and conclusions of law, including, but not limited to, the following: (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; 12. Unless a parent has been denied custody rights pursuant to this section or visitation rights under <u>section 452.400</u>, both parents shall have access to records and information pertaining to a minor child including, but not limited to, medical, dental, and school records. If the parent without custody has been granted restricted or supervised visitation because the court has found that the parent with custody or any child has been the victim of domestic violence, as defined in <u>section 455.010</u>, by the parent without custody, the court may order that the reports and records made available pursuant to this subsection not include the address of the parent with custody or the child. A court shall order that the reports and records made available under this subsection not include the address of the parent with custody if the parent with custody is a participant in the address confidentiality program under <u>section 589.663</u>. Unless a parent has been denied custody rights pursuant to this section or visitation rights under <u>section 452.400</u>, any judgment of dissolution or other applicable court order shall specifically allow both parents access to such records and reports.

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	15. 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.
MONTANA	Mo. Ann. Stat. § 40-4-212 Best interest of child. (1) (f) physical abuse or threat of physical abuse by one parent against the other parent or the child; (l) whether the child has frequent and continuing contact with both parents, which is considered to be in the child's best interests unless the court determines, after a hearing, that contact with a parent would be detrimental to the child's best interests. In making that determination, the court shall consider evidence of physical abuse or threat of physical abuse by one parent against the other parent or the child, including but not limited to whether a parent or other person residing in that parent's household has been convicted of any of the crimes enumerated in <u>40-4-219(8)(b)</u>. (m) adverse effects on the child resulting from continuous and vexatious parenting plan amendment actions.
NEBRASKA	Neb. Rev. Stat. Ann. § 43-2923 Best interests of the child requirements. (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; (5) That certain principles provide a basis upon which education of parents is delivered and upon which negotiation and mediation of parenting plans are conducted. Such principles shall include: To minimize the potentially negative impact of parental conflict on children; to provide parents the tools they need to reach parenting decisions that are in the best interests of a child; to provide alternative dispute resolution or specialized alternative

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	dispute resolution options that are less adversarial for the child and the family; to ensure that the child's voice is heard and considered in parenting decisions; to maximize the safety of family members through the justice process; and, in cases of domestic intimate partner abuse or child abuse or neglect, to incorporate the principles of victim safety and sensitivity, offender accountability, and community safety in parenting plan decisions; and (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 <u>section 43-2922</u> shall be used.
NEVADA*	Nev. Rev. Stat. § 125C.0035 Best interests of child: Joint physical custody; preferences; presumptions when court determines parent or person seeking custody is perpetrator of domestic violence or has committed act of abduction against child or any other child. (5) Except as otherwise provided in subsection 6 or <u>NRS 125C.210</u>, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody 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 physical custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth: (a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and (b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child. 6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider: (a) All prior acts of domestic violence involving either party;

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	(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence; (c) The likelihood of future injury; (d) Whether, during the prior acts, one of the parties acted in self-defense; and (e) Any other factors which the court deems relevant to the determination. In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.
NEW HAMPSHIRE*	N.H. Rev. Stat. Ann. § 461-A:5 Decision-making Responsibility. III. Where the court finds that abuse as defined in <u>RSA 173-B:1</u>, I has occurred, the court shall consider such abuse as harmful to children and as evidence in determining whether joint decision-making responsibility is appropriate. In such cases, the court shall make orders for the allocation of parental rights and responsibilities that best protect the children or the abused spouse or both. If joint decision-making responsibility is granted despite evidence of abuse, the court shall provide written findings to support the order. N.H. Rev. Stat. Ann. § 461-A:2 Statement of Purpose I. Because children do best when both parents have a stable and meaningful involvement in their lives, it is the policy of this state, unless it is shown that in a particular case it is not in the best interest of a child, to: (c) Encourage parents to develop their own parenting plan with the assistance of legal and mediation professionals, unless there is evidence of domestic violence, child abuse, or neglect. (e) Consider both the best interests of the child in light of the factors listed in <u>RSA 461-A:6</u> and the safety of the parties in developing a parenting plan.
NEW JERSEY*	N.J.S.A. § 9:2-4 Custody of child; rights of both parents considered.

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	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; N.J.S.A. § 2C:25-29 Hearing procedure; relief. b. 11. An order awarding temporary custody of a minor child. The court shall presume that the best interests of the child are served by an award of custody to the non-abusive parent.
NEW MEXICO	N.M. Stat. Ann. § 40-4-9.1 Joint custody; standard for determination; parenting plan. (B)(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.
NEW YORK	N.Y. D.R.L. § 240 Custody and child support; orders of protection. 1. (a) In any action or proceeding brought (1) to annul a marriage or to declare the nullity of a void marriage, or (2) for a separation, or (3) for a divorce, or (4) to obtain, by a writ of habeas corpus or by petition and order to show cause, 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 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,

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	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. If an allegation that a child is abused is supported by a preponderance of the evidence, then the court shall consider such evidence of abuse in determining the visitation arrangement that is in the best interest of the child, and the court shall not place a child in the custody of a parent who presents a substantial risk of harm to that child, and shall state on the record how such findings were factored into the determination. Where a proceeding filed pursuant to article ten or ten-A of the family court act is pending at the same time as a proceeding brought in the supreme court involving the custody of, or right to visitation with, any child of a marriage, the court presiding over the proceeding under article ten or ten-A of the family court act may jointly hear the dispositional hearing on the petition under article ten or the permanency hearing under article ten-A of the family court act and, upon referral from the supreme court, the hearing to resolve the matter of custody or visitation in the proceeding pending in the supreme court; provided however, the court must determine custody or visitation in accordance with the terms of this section.
NORTH CAROLINA*	N.C. Gen Stat. § 50-13.2 Who entitled to custody; terms of custody; visitation rights of grandparents; taking child out of State; consideration of parent's military service. (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. An order for custody must include written findings of fact that reflect the consideration of

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	each of these factors and that support the determination of what is in the best interest of the child. Between the parents, whether natural or adoptive, no presumption shall apply as to who will better promote the interest and welfare of the child. Joint custody to the parents shall be considered upon the request of either parent. (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 <u>G.S. 50B-3(a1)(1)</u>, (2), and (3). If a party is absent or relocates with or without the children because of an act of domestic violence, the absence or relocation shall not be a factor that weighs against the party in determining custody or visitation. Absent an order of the court to the contrary, each parent shall have equal access to the records of the minor child involving the health, education, and welfare of the child.
NORTH DAKOTA*	N.D. Cent. Code § 14-09-06.2 Best interests and welfare of child – Court consideration – Factors. 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

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	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.
NORTHERN MARIANA ISLANDS*	N. Mar. I. Code § 1931 Presumptions Concerning Custody. 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 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. N. Mar. I. Code § 1932 Factors in Determining Custody and Visitation. (a) In addition to other factors that the Superior Court must 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 domestic or family violence: (1) The Superior Court shall consider as primary the safety and well-being of the child or children and of the parent who is the victim of domestic or family violence; and (2) The court 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. (b) If a parent is absent or has relocated because of an act of domestic or family violence by the other parent, the absence or relocation is not a factor that weighs against the parent in determining custody or visitation.
OHIO	Ohio Rev. Code § 3109.04 Allocation of parental rights and responsibilities for care of children; shared parenting.

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	(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 <u>section 3119.23 of the Revised Code</u>, and all of the following factors: (a) The ability of the parents to cooperate and make decisions jointly, with respect to the children; (b) The ability of each parent to encourage the sharing of love, affection, and contact between the child and the other parent;
OKLAHOMA*	43 Okl. St. § 109 Best Interest of Child Considered in Awarding Custody or Appointing Guardian – Joint Custody – Plan – Arbitration. 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 child abuse, 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 child abuse, 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 child abuse, domestic violence, harassing or stalking behavior. 2. For the purposes of this subsection: a. “child abuse” shall have the same meaning as “abuse” as defined pursuant to the Oklahoma Children’s Code in <u>Section 1-1-105 of Title 10A of the Oklahoma Statutes</u>, b. “domestic violence” means the threat of the infliction of physical injury, any act of physical harm or the creation of a reasonable fear thereof, or the intentional infliction of emotional distress by a parent or a present or former member of the household of the child, against the child or another member of the household including coercive control by a parent involving physical, sexual, psychological, emotional, economic or financial abuse, 3. If a parent is absent or relocates as a result of an act of domestic violence by the other parent, the absence or relocation shall not be a factor that weighs against the parent in determining custody or visitation.

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	4. The court shall consider, as a primary factor, the safety and well-being of the child who is the victim of child abuse and of the parent who is the victim of domestic violence, harassment, or stalking behavior, in addition to other facts regarding the best interest of the child. 5. The court shall consider the history of the parent causing physical harm, bodily injury, assault, verbal threats, stalking, or harassing behavior, or the fear of physical harm, bodily injury, or assault to another person including the minor child, in determining issues regarding custody and visitation. 43 Okl. St. § 112.2 Custody, Guardianship, Visitation – Mandatory Considerations. A. In every case involving the custody of, guardianship of or visitation with a child, the court shall consider for determining the custody of, guardianship of or the visitation with a child whether any person seeking custody or who has custody of, guardianship of or visitation with a child: 1. Is or has been subject to the registration requirements of the Sex Offenders Registration Act or any similar act in any other state; 2. Has been convicted of a crime listed in the Oklahoma Child Abuse Reporting and Prevention Act or in <u>Section 582 of Title 57 of the Oklahoma Statutes</u>; 3. Is an alcohol-dependent person or a drug-dependent person as established by clear and convincing evidence and who can be expected in the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person as a result of such dependency; 4. Has been convicted of domestic abuse within the past five (5) years; 5. Is residing with an individual who is or has been subject to the registration requirements of the Sex Offenders Registration Act or any similar act in any other state; 6. Is residing with a person who has been convicted of a crime listed in the Oklahoma Child Abuse Reporting and Prevention Act or in <u>Section 582 of Title 57 of the Oklahoma Statutes</u>; 7. Is residing with a person who has been convicted of domestic abuse within the past five (5) years; or

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	8. Has had custody, guardianship, or visitation rights terminated due to failure to complete or participate in any court-ordered substance abuse or mental health treatment. B. There shall be a rebuttable presumption that it is not in the best interests of the child to have custody or guardianship granted to a person who: 1. Is subject to or has been subject to the registration requirements of the Sex Offenders Registration Act or any similar act in any other state; 2. Has been convicted of a crime listed in the Oklahoma Child Abuse Reporting and Prevention Act or in <u>Section 582 of Title 57 of the Oklahoma Statutes</u>; 3. Is an alcohol-dependent person or a drug-dependent person as established by clear and convincing evidence and who can be expected in the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person as a result of such dependency; 4. Has been convicted of domestic abuse within the past five (5) years; 5. Is residing with a person who is or has been subject to the registration requirements of the Sex Offenders Registration Act or any similar act in any other state; 6. Is residing with a person who has been convicted of a crime listed in the Oklahoma Child Abuse Reporting and Prevention Act or in <u>Section 582 of Title 57 of the Oklahoma Statutes</u>; 7. Is residing with a person convicted of domestic abuse within the past five (5) years; or 8. Has had custody, guardianship, or visitation rights terminated due to failure to complete or participate in any court-ordered substance abuse or mental health treatment. C. Custody of, guardianship of, or visitation with a child shall not be granted to any person if it is established that the custody, guardianship or visitation will likely expose the child to a foreseeable risk of material harm. D. Except as otherwise provided by the Oklahoma Child Supervised Visitation Program, court-ordered supervised visitation shall be governed by the Oklahoma Child Supervised Visitation Program. E. For purposes of this section: 1. "Alcohol-dependent person" has the same meaning as such term is defined in <u>Section 3-403 of Title 43A of the Oklahoma Statutes</u>; 2. "Domestic abuse" has the same meaning as such term is defined in <u>Section 60.1 of Title 22 of the Oklahoma Statutes</u>;

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	3. “Drug-dependent person” has the same meaning as such term is defined in <u>Section 3-403 of Title 43A of the Oklahoma Statutes</u>; and 4. “Supervised visitation” means a program established pursuant to Section 110.1a of this title. 43 Okl. St. § 112.5 Custody or Guardianship – Order of Preference – Death or Judicial Removal of Parent – Preference of Child – Presumptions Regarding Best Interests of Child. C. In applying subsection A of this section, a court shall award custody or guardianship of a child to a parent, unless the court finds that the parent is affirmatively unfit. There shall be a rebuttable presumption that a parent is affirmatively unfit if the parent: 4. Has been convicted of domestic abuse within the past five (5) years;
<u>OREGON</u>	Or. Rev. Stat. § 107.137 Factors considered in determining custody of child. (d) The abuse of one parent by the other;
PENNSYLVANIA	23 Pa.C.S. § 5328 Factors to consider when awarding custody. (2) The present and past abuse committed by a party or member of the party’s household, which may include past or current protection from abuse or sexual violence protection orders where there has been a finding of abuse. (2.2) Violent or assaultive behavior committed by a party. (2.3) Which party is more likely to encourage and permit frequent and continuing contact between the child and another party if contact is consistent with the safety needs of the child. (8) The attempts of a party to turn the child against the other party, except in cases of abuse where reasonable safety measures are necessary to protect the safety of the child. A party’s reasonable concerns for the safety of the child and the party’s reasonable efforts to protect the child shall not be considered attempts to turn the child against the other party. A child’s deficient or negative relationship with a party shall not be presumed to be caused by the other party.

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	(13) The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child or self from abuse by another party is not evidence of unwillingness or inability to cooperate with that party. (a.1) <i>Exception.</i> A factor under subsection (a) shall not be adversely weighed against a party if the circumstances related to the factor were in response to abuse or necessary to protect the child or the abused party from harm and the party alleging abuse does not pose a risk to the safety of the child at the time of the custody hearing. Temporary housing instability as a result of abuse shall not be considered against the party alleging abuse. 23 Pa.C.S. § 6108 Protection from abuse act – Relief. (a) <i>General rule.</i> Subject to subsection (a.1), the court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement may include: (1) Directing the defendant to refrain from abusing the plaintiff or minor children. (2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff if the residence or household is jointly owned or leased by the parties, is owned or leased by the entireties or is owned or leased solely by the plaintiff. (3) If the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff or, with the consent of the plaintiff, ordering the defendant to provide suitable alternate housing. (4) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children. In determining whether to award temporary custody or establish temporary visitation rights pursuant to this paragraph, the court shall consider any risk posed by the defendant to the children as well as risk to the plaintiff. The following shall apply: (i) A defendant shall not be granted custody, partial custody or unsupervised visitation where it is alleged in the petition, and the court finds after a hearing under this chapter, that the defendant:

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	(A) abused the minor children of the parties or poses a risk of abuse toward the minor children of the parties; or (B) has been convicted of violating <u>18 Pa.C.S. § 2904</u> (relating to interference with custody of children) within two calendar years prior to the filing of the petition for protection order or that the defendant poses a risk of violating <u>18 Pa.C.S. § 2904</u>. (ii) Where the court finds after a hearing under this chapter that the defendant has inflicted abuse upon the plaintiff or a child, the court may require supervised custodial access by a third party. The third party must agree to be accountable to the court for supervision and execute an affidavit of accountability. (iii) Where the court finds after a hearing under this chapter that the defendant has inflicted serious abuse upon the plaintiff or a child or poses a risk of abuse toward the plaintiff or a child, the court may: (A) award supervised visitation in a secure visitation facility; or (B) deny the defendant custodial access to a child. (iv) If a plaintiff petitions for a temporary order under section 6107(b) (relating to hearings) and the defendant has partial, shared or full custody of the minor children of the parties by order of court or written agreement of the parties, the custody shall not be disturbed or changed unless the court finds that the defendant is likely to inflict abuse upon the children or to remove the children from the jurisdiction of the court prior to the hearing under section 6107(a). Where the defendant has forcibly or fraudulently removed any minor child from the care and custody of a plaintiff, the court shall order the return of the child to the plaintiff unless the child would be endangered by restoration to the plaintiff. (v) Nothing in this paragraph shall bar either party from filing a petition for custody under Chapter 53 (relating to custody) or under the Pennsylvania Rules of Civil Procedure. (vi) In order to prevent further abuse during periods of access to the plaintiff and child during the exercise of custodial rights, the court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children from abuse.
PUERTO RICO*	32 L.P.R.A. § 3187 When joint custody is not considered beneficial and in the best interest of minors.

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	Joint custody will not be considered beneficial and favorable to the best interests of minors in the following cases: (1) When one of the parents states that he or she is not interested in having custody of the minors, based on a shared custody plan. It will be understood that the waiver is in favor of the other parent. (2) If one of the parents suffers from a mental disability or deficiency, as determined by a health professional, and it is of an irreversible nature and of such magnitude that it prevents him/her from adequately caring for the children and guaranteeing their physical, mental, emotional and/or sexual safety and integrity. (3) When the acts or omissions of one of the parents are harmful to the children or constitute a pattern of corrupting examples. (4) When one of the parents or his or her spouse or common-law partner has been convicted of acts constituting child abuse. (5) When one of the parents is confined in a prison institution. (6) When one of the parents has been convicted of acts constituting domestic violence, as provided in secs. 601 et seq. of Title 8. (7) Situations where the father or mother has committed sexual abuse, or any of the sexual crimes, as defined in the Penal Code of Puerto Rico, towards a minor. (8) When one of the parents or his or her spouse or common-law partner, if applicable, is addicted to illegal drugs or alcohol.
RHODE ISLAND	R.I. Gen. Laws § 15-5-16 Alimony and counsel fees – Custody of children. (g) (1) Notwithstanding the provisions of this section and <u>§ 15-5-19</u>, 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. (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

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	violence. The court shall also consider the perpetrator's history of causing physical harm, bodily injury or assault to another person. (3) In a visitation or custody order, as a condition of the order, the court may: (i) Order the perpetrator of domestic violence to attend and successfully complete, to the satisfaction of the court, a certified batterer's intervention program; (ii) Order the perpetrator to attend a substance abuse program whenever deemed appropriate; (iii) Require that a bond be filed with the court in order to ensure the return and safety of the child; (iv) Order that the address and telephone number of the child be kept confidential; (v) Order an exchange of the child to occur in a protected setting, or supervised by another person or agency; provided that, if the court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation; (vi) Order the perpetrator of domestic violence to abstain from possession or consumption of alcohol or controlled substances during the visitation; and (vii) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of domestic violence, or other family or household member. (4) "Domestic violence" means the occurrence of one or more of the following acts between spouses or people who have a child in common: (i) Attempting to cause or causing physical harm; (ii) Placing another in fear of imminent serious physical harm; (iii) Causing another to engage involuntarily in sexual relations by force, threat of force, or duress. (5) In every proceeding in which there is at issue the modification of an order for custody or visitation of a child, the finding that domestic or family violence has occurred since the last custody determination constitutes a prima facie finding of a change of circumstances. (6) The fact that a parent is absent or relocates because of an act of domestic or family violence by the other parent shall not weigh against the relocating or absent parent in determining custody and visitation. (7) A party's absence, relocation, or failure to comply with custody and visitation orders shall not, by itself, be sufficient to justify a modification of a custody or visitation order if

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	the reason for the absence, relocation, or failure to comply is the party's activation to military service or deployment out of state.
SOUTH CAROLINA	S.C. Code Ann. § 63-15-240 Contents of order for custody affecting rights and responsibilities of parents; best interest of the child. (B)(15) whether one parent has perpetrated domestic violence or child abuse or 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 between the parent and the child; S.C. Code Ann. § 63-15-240 Considerations of Domestic Violence. 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 <u>Section 16-25-20</u> or <u>Section 16-25-65</u> including, but not limited to: (1) physical or sexual abuse; and (2) if appropriate, evidence of which party was the primary aggressor, as defined in <u>Section 16-25-70</u>. (B) The absence or relocation from the home by a person, against whom an act of domestic violence has been perpetrated, if that person is not the primary aggressor, must not be considered by the court to be sufficient cause, absent other factors, to deny custody of the minor child to that person.
SOUTH DAKOTA*	S.D. Codified Laws § 23-4-45.5 Consideration of assault conviction in custody award. In awarding custody involving a minor, the court shall consider: (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.

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	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. S.D. Codified Laws § 25-4-45.7 Determination of existence of domestic abuse. For purposes of this chapter, in determining whether a history of domestic abuse exists, the court's consideration may include the issuance of a protection order against a parent or any arrest report of a parent following the response of law enforcement to a report of domestic abuse as defined in subdivision 25-10-1(1).
TENNESSEE*	Tenn. Code Ann. § 36-6-106 Child custody. (a) (11) Evidence of physical or emotional abuse to the child, to the other parent, or to any other person, including the child's siblings. The court may, where appropriate, refer any issues of abuse to juvenile court for further proceedings; Tenn. Code Ann. § 36-6-406 Child Custody Restrictions in temporary or permanent parenting plans. (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 the limitation is found to be in the best interest of the minor child and if the court determines, based upon a prior order or other reliable evidence, that a parent has engaged in any of the following conduct: (1) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting responsibilities; or (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 <u>§ 36-3-601</u>.

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	(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 <u>§ 36-3-601</u>.
TEXAS*	Tex. Fam. Code § 153.004 History of Domestic Violence or Sexual Abuse. (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, or evidence of sexual abuse, by a party directed 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. (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 <u>Section 22.011 or 22.021, Penal Code</u>, 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. (c) The court shall consider the commission of family violence or sexual abuse in determining whether to deny, restrict, or limit the possession of a child by a parent who is appointed as a possessory conservator. (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: (1) 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; or

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	(2) the parent engaged in conduct that constitutes an offense under Section 21.02, 22.011, 22.021, or 25.02, Penal Code, and that as a direct result of the conduct, the victim of the conduct became pregnant with the parent's child. (d-1) Notwithstanding Subsection (d), the court may allow a parent to have access to a child if the court: (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 (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: (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 <u>Article 42.141, Code of Criminal Procedure</u>, 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 abuse or family violence by: (1) that parent; or (2) any person who resides in that parent's household or who is permitted by that parent to have unsupervised access to the child during that parent's periods of possession of or access to the child. (f) In determining under this section whether there is credible evidence of a history or pattern of past or present child neglect or abuse or family violence by a parent or other person, as applicable, the court shall consider whether a protective order was rendered under Chapter 85, Title 4, against the parent or other person during the two-year period preceding the filing of the suit or during the pendency of the suit. (g) In this section:

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	(1) “Abuse” and “neglect” have the meanings assigned by Section 261.001. (2) “Family violence” has the meaning assigned by Section 71.004.
UNITED STATES VIRGIN ISLANDS*	16 V.I.C. § 109 Final Orders. (a) Whenever a marriage is declared void or dissolved the court may, without regard to any determination that the breakdown of the marriage was the fault of one party or the other, further decree: (1) for the future care and custody of minor children of the marriage as it may deem just and proper, having due regard to the age and sex of such children and giving primary consideration to the needs and welfare of such children; (2) for the recovery from the party not granted care and custody of such children such an amount of money, in gross or in installments, as may be just and proper for such party to contribute toward the nurture and education thereof; (3) for the recovery for a party determined to be in need thereof an amount of money in gross or in installments, as may be necessary for the support and maintenance of such party; (4) for the delivery to the wife of her personal property in the possession or control of the husband at the time of giving the judgment; (5) for the appointment of one or more trustees to collect, receive, expand, manage, or invest, in such manner as the court shall direct, any sum of money necessary for the maintenance of the wife or the nurture and education of minor children committed to her; or (6) to change the name of the wife. (7) for the award to the parties of all marital property, in accordance with principles of equitable distribution. For purposes of this paragraph, “marital property” means all real and personal property acquired by either spouse subsequent to the marriage, except: (A) Property acquired by gift, bequest, devise, or descent; (B) Property acquired in exchange for property acquired prior to the marriage, or in exchange for property acquired by gift, bequest, devise, or descent; (C) Property acquired by a spouse after a decree of legal separation; (D) Any judgment or property obtained by judgment awarded to a spouse from the other spouse; (E) Property excluded by valid, written agreement of the parties; and

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	(F) Income from property acquired by a method listed in subparagraphs (A) through (E), if the income is not attributable to the personal effort of a spouse. (b) <i>Determination raises rebuttable presumption that child reside with parent not perpetrator or legal guardian.</i> In determining the future care and custody of minor children under subsection (a), a determination by the court that the domestic violence has occurred raises a rebuttable presumption that it is in the best interest of the child to reside with the parent who is not the perpetrator of domestic violence in the location of that parent's choice, within or outside the territory or with a legal guardian. This presumption shall also apply when a parent has been convicted for the death of the other parent, or when the child has been conceived by rape. (c) <i>Factors court must consider.</i> In addition to the other factors that the court considers in determining the custody of a child or visitation by a parent, and where the court has made a finding of domestic violence, the court shall consider each of the following: (1) The safety and well-being of the child and of the parent who is the victim of domestic violence. (2) 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. (3) If a parent is absent or relocates because of an act of domestic violence by the other parent, the absence or relocation may not be a factor that weighs against the parent in determining the custody or visitation. (d) <i>Visitation by parent who committed violence.</i> (1) A court may award visitation by a parent who committed domestic violence only if the court finds that adequate provision for the safety of the child and the parent who is a victim of domestic violence can be made. In a visitation order, a court may take any of the following actions: (A) order an exchange of the child to occur in a protected setting; (B) order visitation supervised in a manner to be determined by the court; (C) order the perpetrator of domestic violence to attend and complete to the satisfaction of the court, a program of intervention for perpetrators or other designated counseling as a condition of visitation;

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	(D) order the perpetrator of domestic violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding the visitation; (E) order the perpetrator of domestic violence to pay a fee to defray the cost of supervised visitation; (F) Prohibit overnight visitation; (G) Require a bond from the perpetrator of domestic violence for the return and safety of the child; and (H) Impose any other condition that is considered necessary to provide for the safety of the child, the victim of domestic violence, or other family or household member. (2) Whether or not visitation is allowed, the court may order the address of the child or the victim of domestic violence to be kept confidential. (3) The court may refer, but may not order an adult who is a victim of domestic violence to attend counseling relating to the victim's status or behavior as a victim, individually or with the perpetrator of domestic violence as a condition of receiving custody of a child, or as a condition of visitation. (4) If a court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation. (e) <i>Domestic violence defined.</i> For purposes of this section, domestic violence means domestic violence as defined in title 16 Virgin Islands Code, chapter 2, section 91, subsections (b) and (c).
UTAH	Utah Code § 81-9-204 (10) Custody and parent-time of a minor child – Custody factors – Preferences. (10) (a) The court shall consider evidence of domestic violence if evidence of domestic violence is presented. (b) The court shall consider as primary, the safety and well-being of the minor child and the parent who experiences domestic violence. (c) A court shall consider an order issued by a court in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or substantiated potential harm to the minor child.

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	(d) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section <u>81-9-209</u>. (11) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the minor child: (a) it is in the best interest of the minor child to have frequent, meaningful, and continuing access to each parent following separation or divorce; (b) each parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's minor child consistent with the minor child's best interests; and (c) it is in the best interest of the minor child to have both parents actively involved in parenting the minor child. (12) Notwithstanding any other provision of this chapter, the court may not grant custody or parent-time of a minor child to a parent convicted of a sexual offense, as defined in Section 77-37-2, that resulted in the conception of the minor child unless: (a) the nonconvicted biological parent, or the legal guardian of the minor child, consents to custody or parent-time and the court determines it is in the best interest of the minor child to award custody or parent-time to the convicted parent; or (b) after the date of the conviction, the convicted parent and the nonconvicted parent cohabit and establish a mutual custodial environment for the minor child. (13) A denial of custody or parent-time under Subsection (12) does not: (a) terminate the parental rights of the parent denied parent-time or custody; or (b) affect the obligation of the convicted parent to financially support the minor child.

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VERMONT*	Vt. Stat. Ann. tit. 15, § 665 Rights and responsibilities order; best interest of child (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. (f)The State has a compelling interest in not forcing a victim of sexual assault or sexual exploitation to continue an ongoing relationship with the perpetrator of the abuse. Such continued interaction can have traumatic psychological effects on the victim, making recovery more difficult, and negatively affect the victim’s ability to parent and to provide for the best interests of the child. Additionally, the State recognizes that a perpetrator may use the threat of pursuing parental rights and responsibilities to coerce a victim into not reporting or not assisting in the prosecution of the perpetrator for the sexual assault or sexual exploitation, or to harass, intimidate, or manipulate the victim. (1) The court may enter an order awarding sole parental rights and responsibilities to a parent and denying all parent-child contact with the other parent if the court finds by clear and convincing evidence that the nonmoving parent was convicted of sexually assaulting the moving parent and the child was conceived as a result of the sexual assault, or that the nonmoving parent was convicted of human trafficking pursuant to <u>13 V.S.A. § 2652</u>, and the moving parent was the trafficked victim. As used in this subdivision, sexual assault shall include sexual assault as provided in <u>13 V.S.A. § 3252(a)</u>, (b), (d), and (e), aggravated sexual assault as provided in <u>13 V.S.A. § 3253</u>, aggravated sexual assault of a child as provided in <u>13 V.S.A. § 3253a</u>, lewd and lascivious conduct with a child as provided in <u>13 V.S.A. § 2602</u>, and similar offenses in other jurisdictions. (2) The court may enter an order awarding sole parental rights and responsibilities to one parent and denying all parent-child contact between the other parent and a child if the court finds by clear and convincing evidence that the child was conceived as a result of the nonmoving parent sexually assaulting or sexually exploiting the moving parent, or that the moving parent was trafficked by the nonmoving parent pursuant to <u>13 V.S.A. § 2652</u> and the court finds by a preponderance of the evidence that such an order is in the best interests of the child. A conviction is not required under this subdivision, and the court may consider other evidence of sexual assault or sexual exploitation in making its determination. For purposes of this subdivision:

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	(A)sexual assault shall include sexual assault as provided in <u>13 V.S.A. § 3252</u>, aggravated sexual assault as provided in <u>13 V.S.A. § 3253</u>, aggravated sexual assault of a child as provided in <u>13 V.S.A. § 3253a</u>, lewd and lascivious conduct with a child as provided in <u>13 V.S.A. § 2602</u>, and similar offenses in other jurisdictions; and (B)sexual exploitation shall include sexual exploitation of an inmate as provided in <u>13 V.S.A. § 3257</u>, sexual exploitation of a minor as provided in <u>13 V.S.A. § 3258</u>, sexual abuse of a vulnerable adult as provided in <u>13 V.S.A. § 1379</u>, and similar offenses in other jurisdictions. (3) Issuance of an order pursuant to this subsection shall not affect the right of the custodial parent to seek child support from the noncustodial parent. (4) Upon issuance of a rights and responsibilities order pursuant to this subsection, the court shall not issue a parent-child contact order and shall terminate any existing parent-child contact order concerning the child and the nonmoving parent. An order issued in accordance with this subdivision shall be permanent and shall not be subject to modification. Vt. Stat. Ann. Tit. 15 § 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;

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	(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; (6) prohibit overnight parent-child contact; (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. (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. (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.
VIRGINIA	Va. Code Ann. § 20-124.3 Best interests of the child; visitation. 9. Any history of (i) family abuse as that term is defined in <u>§ 16.1-228</u>; (ii) sexual abuse; (iii) child abuse; or (iv) an act of violence, force, or threat as defined in <u>§ 19.2-152.7:1</u> that occurred no earlier than 10 years prior to the date a petition is filed. If the court finds such a history or act, the court may disregard the factors in subdivision 6;
WASHINGTON*	Wash. Rev. Code Ann. §26.09.191 Restrictions in temporary or permanent parenting plans. (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 <u>RCW 7.105.010</u> or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy. (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 <u>RCW 7.105.010</u> or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; or (iv) the parent has been convicted as an adult of a sex offense under:...

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	(b) The parent's residential time with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct: (i) Physical, sexual, or a pattern of emotional abuse of a child; (ii) a history of acts of domestic violence as defined in <u>RCW 7.105.010</u> or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; or (iii) the person has been convicted as an adult or as a juvenile has been adjudicated of a sex offense under:... (3) A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist: (a) A parent's neglect or substantial nonperformance of parenting functions; (b) A long-term emotional or physical impairment which interferes with the parent's performance of parenting functions as defined in <u>RCW 26.09.004</u>; (c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions; (d) The absence or substantial impairment of emotional ties between the parent and the child; (e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development. Abusive use of conflict includes, but is not limited to, abusive litigation as defined in <u>RCW 26.51.020</u>. If the court finds a parent has engaged in abusive litigation, the court may impose any restrictions or remedies set forth in chapter 26.51 RCW in addition to including a finding in the parenting plan. Litigation that is aggressive or improper but that does not meet the definition of abusive litigation shall not constitute a basis for a finding under this section. A report made in good faith to law enforcement, a medical professional, or child protective services of sexual, physical, or mental abuse of a child shall not constitute a basis for a finding of abusive use of conflict; (f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or (g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child. (4) In cases involving allegations of limiting factors under subsection (2)(a)(ii) and (iii) of this section, both parties shall be screened to determine the appropriateness of a

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	comprehensive assessment regarding the impact of the limiting factor on the child and the parties. (5) In entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of the temporary parenting plan. (6) In determining whether any of the conduct described in this section has occurred, the court shall apply the civil rules of evidence, proof, and procedure.
WEST VIRGINIA	W. Va. Code § 48-27-509 Conditions of visitation in cases involving domestic violence. (a) A court may award visitation of a child by a parent who has committed domestic violence only if the court finds that adequate provision for the safety of the child and the petitioner can be made. (b) In a visitation order, a court may: (1) Order an exchange of a child to occur in a protected setting; (2) Order that supervision be provided by another person or agency; (3) Order the perpetrator of domestic violence to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators as a condition of the visitation; (4) Order the perpetrator of domestic violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and for the twelve hours that precede the visitation; (5) Order the perpetrator of domestic violence to pay the costs of supervised visitation, if any; (6) Prohibit overnight visitation; (7) Impose any other condition that the court considers necessary to provide for the safety of the child, the petitioner or any other family or household member. (c) Regardless of whether visitation is allowed, the court may order that the address of the child and the petitioner be kept confidential. (d) If a court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation.
WISCONSIN*	Wis. Stat. §767.41 Custody and Physical Placement (2)(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 <u>s. 940.19</u> or <u>940.20 (1m)</u>, or domestic abuse, as defined in <u>s. 813.12 (1) (am)</u>, pars.

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	(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: 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. 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). 2. If the court finds under subd. 1. that both parties engaged in a pattern or serious incident of interspousal battery, as described under <u>s. 940.19</u> or <u>940.20 (1m)</u>, or domestic abuse, as defined in <u>s. 813.12 (1) (am)</u>, the party who engaged in the battery or abuse for purposes of the presumption under subd. 1. is the party that the court determines was the primary physical aggressor. Except as provided in subd. 3., in determining which party was the primary physical aggressor, the court shall consider all of the following: a. Prior acts of domestic violence between the parties. b. The relative severity of the injuries, if any, inflicted upon a party by the other party in any of the prior acts of domestic violence under subd. 2. a. c. The likelihood of future injury to either of the parties resulting from acts of domestic violence. d. Whether either of the parties acted in self-defense in any of the prior acts of domestic violence under subd. 2. a. e. Whether there is or has been a pattern of coercive and abusive behavior between the parties. f. Any other factor that the court considers relevant to the determination under this subdivision. 3. If the court must determine under subd. 2. which party was the primary physical aggressor and one, but not both, of the parties has been convicted of a crime that was an act of domestic abuse, as defined in <u>s. 813.12 (1) (am)</u>, with respect to the other party, the court shall find the party who was convicted of the crime to be the primary physical aggressor.

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	4. The presumption under subd. 1. does not apply if the court finds that both parties engaged in a pattern or serious incident of interspousal battery or domestic abuse but the court determines that neither party was the primary physical aggressor.
WYOMING	Wyo. Stat. Ann. § 20-2-201 Disposition and maintenance of children in decree or order; access to records. (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.