

**Here are relevant statutory factors to keep in mind:**

Minn. Stat. §518.175, Subd. 1, (g) In the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive at least **25 percent** of the parenting time for the child. For purposes of this paragraph, the percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent or by using a method other than overnights if the parent has significant time periods on separate days when the child is in the parent's physical custody but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.

**On August 1, 2014**, several amendments were made to Minnesota's child custody and parenting time statutes:

- There is no presumption for or against joint physical custody (except in cases of domestic abuse);
- Disagreement over whether physical custody should be sole or joint isn't sufficient, by itself, to show that parents' joint custody is not appropriate;
- Factual findings are needed whenever the parties disagree as to custody (whether sole or joint);
- The court may reserve determination of future expansion of parenting time and apply a best interests standard (including recognition of a child's changing developmental needs) at a later date; and
- Increases in parenting time up to 54.9% are not "restrictions" of the other parent's parenting time requiring a heightened modification standard.

**Effective August 1<sup>st</sup> 2015 the best interest factors are now:**

**The best interests of the child/children –**

1. A child's physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child's needs and development;
2. Any special medical, mental health, or educational needs the child may have that may require special parenting arrangements or access to recommended services;
3. The reasonable preference of the child, if the court deems the child to be of sufficient ability, age, and maturity to express and independent, reliable preference;

4. Whether domestic abuse\*, as defined in section 518B.01, has occurred in the parent's 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;
5. Any physical, mental, or chemical health issues of a parent that affects the child's safety or developmental needs;
6. The history and nature of each parent's participation in providing care for the child;
7. The willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time;
8. The effect on the child's well-being and development of changes to home, school, and community;
9. The effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life;
10. The benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent;
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 frequency and continuing contact between the child and the other parent; and
12. The willingness and ability of parents to cooperate in the rearing of their child; to maximize sharing of information and minimize exposure of the child to parental conflict

and to utilize methods for resolving disputes regarding any major decisions concerning the life of the child.

The following clauses govern the best interest factors outlined above:

1. The court must make detailed findings on each of the factors in paragraph (a) based on the evidence presented and explain how each factor led to its conclusions and to the determination of custody and parenting time. The court may not use one factor to the exclusion of all others, and the court shall consider that the factors may be interrelated.
2. The court shall consider that it is in the best interests of the child to promote the child's healthy growth and development through safe, stable, nurturing relationships between a child and both parents.
3. The court shall consider both parents as having the capacity to develop and sustain nurturing relationships with their children unless there are substantial reasons to believe otherwise. In assessing whether parents are capable of sustaining nurturing relationships with their children, the court shall recognize that there are many ways that parents can respond to a child's needs with sensitivity and provide the child love and guidance, and these may differ between parents and among cultures.
4. The court shall not consider conduct of a party that does not affect the party's relationship with the child.
5. Disability alone, as defined in § 363A.03, of a proposed custodian or the child shall not be determinative of the custody of the child.
6. The court shall consider evidence of a violation of § 609.507 in determining the best interest of the child.
7. There is no presumption for or against joint physical custody, except when domestic abuse, as defined in § 518B.01\*, has occurred between the parents.
8. Joint physical custody does not require an absolutely equal division of time.
9. The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interest of the child. However, the court shall use a rebuttable presumption that joint legal custody or joint physical custody is not in the best interest of the child if domestic abuse, as defined in § 518B.01\*, has occurred between the parents. 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).

**\*Minn. Stat. §518B.01**

**Subdivision 1.Short title.**

This section may be cited as the "Domestic Abuse Act."

**Subd. 2.Definitions.**

As used in this section, the following terms shall have the meanings given them:

- (a) "Domestic abuse" means the following, if committed against a family or household member by a family or household member:
- (1) physical harm, bodily injury, or assault;
  - (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or
  - (3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.