

SENATE BILL 1058

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 36,  
Chapter 6, relative to child custody determinations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-6-101, is amended by deleting subdivision (a)(2)(A)(i) and substituting:

(i) Except as provided in this subsection (a) and § 36-6-102, there is a presumption, rebuttable by a preponderance of the evidence, that joint legal custody and equally shared parenting time is in the best interest of the child. For the purpose of assisting the court in determining whether a deviation from joint legal custody and equally shared parenting time is warranted, the court may direct that an investigation be conducted. Orders for other than joint legal custody and equally shared parenting time must be based on written findings of fact and conclusions of law to the contrary. A written finding of fact or conclusion of law to the contrary must be included in the custody order. The burden of proof necessary to modify an order of joint legal custody and equally shared parenting time at a subsequent proceeding is by a preponderance of the evidence.

SECTION 2. Tennessee Code Annotated, Section 36-6-101(a)(2)(A), is amended by adding the following as a new subdivision:

( ) If a domestic violence order is being or has been entered against a party by another party or on behalf of a child at issue in the custody hearing, then the presumption that joint custody and equally shared parenting time is in the best interest of the child does not apply.

SECTION 3. Tennessee Code Annotated, Section 36-6-106(a), is amended by inserting the following language after the first sentence:

There is a presumption, rebuttable by a preponderance of the evidence, that joint legal custody and equally shared parenting time is in the best interest of the child.

SECTION 4. Tennessee Code Annotated, Section 36-6-106(a), is amended by deleting "In taking into account the child's best interest," and substituting "If the court determines that a deviation from joint legal custody and equally shared parenting time is warranted, then".

SECTION 5. This act takes effect July 1, 2023, the public welfare requiring it, and applies to all custody determinations made on or after that date.