

1 H.400

2 Introduced by Representatives Masland of Thetford, Campbell of St.

3 Johnsbury, Priestley of Bradford, Stebbins of Burlington, and

4 Troiano of Stannard

5 Referred to Committee on

6 Date:

7 Subject: Domestic relations; annulment and divorce; child custody and support

8 Statement of purpose of bill as introduced: This bill proposes to declare that it  
9 is the public policy of the State to encourage parents to share in the rights and  
10 responsibilities of raising their children after the parents have separated or  
11 divorced; to create a rebuttable presumption that shared parental rights and  
12 responsibilities are in the best interests of the child; and to amend the factors a  
13 court considers in determining the best interests of a child.

14 An act relating to parental rights and responsibilities

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 15 V.S.A. § 650 is amended to read:

17 § 650. LEGISLATIVE FINDINGS AND PURPOSE

18 The ~~legislature~~ General Assembly finds and declares as public policy that  
19 ~~after parents have separated or dissolved their civil marriage,~~ it is in the best  
20 interests of ~~their minor child~~ children to have ~~the opportunity for~~ maximum

1 continuing physical and emotional contact with both parents and encourages  
2 parents to share in the rights and responsibilities of raising their children after  
3 the parents have separated or divorced, unless direct physical harm or  
4 significant emotional harm to the child or a parent is likely to result from such  
5 contact. The ~~legislature~~ General Assembly further finds and declares as public  
6 policy that parents have the responsibility to provide child support, and that  
7 child support orders should reflect the true costs of raising children and  
8 approximate insofar as possible the standard of living the child would have  
9 enjoyed had the family remained intact.

10 Sec. 2. 15 V.S.A. § 664 is amended to read:

11 § 664. DEFINITIONS

12 As used in this subchapter:

13 (1) “Parental rights and responsibilities” means the rights and  
14 responsibilities related to a child’s physical living arrangements, education,  
15 medical and dental care, religion, travel, and any other matter involving a  
16 child’s welfare and upbringing.

17 ~~(A)~~(2) “Legal responsibility” means the rights and responsibilities to  
18 determine and control various matters affecting a child’s welfare and  
19 upbringing, other than routine daily care and control of the child. These  
20 matters include but are not limited to education, medical and dental care,

1 religion, and travel arrangements. ~~Legal responsibility may be held solely or~~  
2 ~~may be divided or shared.~~

3 ~~(B)(3)~~ (3) “Physical responsibility” means the rights and responsibilities  
4 to provide routine daily care and control of the child ~~subject to the right of the~~  
5 ~~other parent to have contact with the child.~~ Physical responsibility may be  
6 ~~held solely or may be divided or shared~~ pursuant to the parenting plan.

7 ~~(2)~~ “Parent child contact” means the right of a parent who does not have  
8 ~~physical responsibility to have visitation with the child.~~

9 Sec. 3. 15 V.S.A. § 665 is amended to read:

10 § 665. RIGHTS AND RESPONSIBILITIES ORDER; PARENTING PLAN;

11 BEST INTERESTS OF THE CHILD

12 (a) In an action under this chapter, the court shall ~~make issue~~ issue an order  
13 concerning parental rights and responsibilities ~~of~~ and a parenting plan for any  
14 minor child of the parties. ~~The court may order parental rights and~~  
15 ~~responsibilities to be divided or shared between the parents on such terms and~~  
16 ~~conditions as serve the best interests of the child. When the parents cannot~~  
17 ~~agree to divide or share parental rights and responsibilities, the court shall~~  
18 ~~award parental rights and responsibilities primarily or solely to one parent~~  
19 There shall be a rebuttable presumption that shared parental rights and  
20 responsibilities are in the best interests of the child.

1 (b) In making an order under this section, the court shall be guided by the  
2 best interests of the child and shall consider at least the following factors:

3 (1) the relationship of the child with each parent and the ability and  
4 disposition of each parent to provide the child with love, affection, and  
5 guidance;

6 (2) the ability and disposition of each parent to assure that the child  
7 receives adequate food, clothing, medical care, other material needs, and a safe  
8 environment;

9 (3) the ability and disposition of each parent to meet the child's present  
10 and future developmental needs;

11 (4) the quality of the child's adjustment to the child's ~~present housing,~~  
12 ~~school,~~ and community and the potential effect of any change;

13 (5) the ability and disposition of each parent to support and foster a  
14 positive relationship and frequent and continuing contact with the other parent,  
15 including physical, written, telephonic, and electronic contact, except where  
16 contact will result in harm to the child or to a parent;

17 (6) ~~the quality of the child's relationship with the primary care provider,~~  
18 ~~if appropriate given the child's age and development;~~ [Repealed.]

19 (7) the relationship of the child with any other person who may  
20 significantly affect the child;

1           (8) the ability and disposition of the parents to communicate, cooperate  
2 with each other, and make joint decisions concerning the children ~~where~~  
3 ~~parental rights and responsibilities are to be shared or divided; and~~

4           (9) evidence of abuse, as defined in section 1101 of this title, and the  
5 impact of the abuse on the child and on the relationship between the child and  
6 the abusing parent.

7           (c) The court shall not apply a preference for one parent over the other  
8 because of the sex of the child, the sex of a parent, or the financial resources of  
9 a parent.

10          ~~(d) The court may order a parent who is awarded responsibility for a certain~~  
11 ~~matter involving a child's welfare to inform the other parent when a major~~  
12 ~~change in that matter occurs. [Repealed.]~~

13          (e) The jurisdiction granted by this section shall be limited by the Uniform  
14 Child Custody Jurisdiction and Enforcement Act; if another state has  
15 jurisdiction as provided in that act. For the purposes of interpreting that act and  
16 any other provision of law ~~which~~ that refers to a custodial parent, including  
17 13 V.S.A. § 2451, the parent with physical responsibility shall be considered  
18 the custodial parent.

19          Sec. 4. EFFECTIVE DATE

20           This act shall take effect on July 1, 2023