

1 S.98

2 Introduced by Senators McCormack, Collins, and Flory

3 Referred to Committee on

4 Date:

5 Subject: Domestic relations; divorce; parental rights and responsibilities

6 Statement of purpose of bill as introduced: This bill proposes to create a
7 rebuttable presumption that shared parental rights and responsibilities are in
8 the best interests of the child. A court would be permitted to order sole rights
9 and responsibilities to one parent but would not be required to do so in cases
10 where the parents could not agree.

11 An act relating to shared parental rights and responsibilities

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

13 Sec. 1. 15 V.S.A. § 665 is amended to read:

14 § 665. RIGHTS AND RESPONSIBILITIES ORDER; BEST INTERESTS OF
15 THE CHILD

16 (a) In an action under this chapter the court shall make an order concerning
17 parental rights and responsibilities of any minor child of the parties. There
18 shall be a rebuttable presumption that shared parental rights and
19 responsibilities are in the best interests of the child. The court may order
20 parental rights and responsibilities to be divided or shared between the parents

1 on such terms and conditions as serve the best interests of the child. When the
2 parents cannot agree to divide or share parental rights and responsibilities, the
3 court ~~shall~~ may award parental rights and responsibilities primarily or solely to
4 one parent.

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

7 (1) the relationship of the child with each parent and the ability and
8 disposition of each parent to provide the child with love, affection, and
9 guidance;

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

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

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

17 (5) the ability and disposition of each parent to foster a positive
18 relationship and frequent and continuing contact with the other parent,
19 including physical contact, except where contact will result in harm to the child
20 or to a parent;

1 (6) the quality of the child's relationship with the primary care provider,
2 if appropriate given the child's age and development;

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

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

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

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

14 (d) The court may order a parent who is awarded responsibility for a certain
15 matter involving a child's welfare to inform the other parent when a major
16 change in that matter occurs.

17 (e) The jurisdiction granted by this section shall be limited by the Uniform
18 Child Custody Jurisdiction and Enforcement Act, if another state has
19 jurisdiction as provided in that act. For the purposes of interpreting that act
20 and any other provision of law which refers to a custodial parent, including ~~but~~

1 ~~not limited to~~ 13 V.S.A. § 2451, the parent with physical responsibility shall be
2 considered the custodial parent.

3 Sec. 2. EFFECTIVE DATE

4 This act shall take effect on July 1, 2013.