

Rebuttable Shared Parenting Laws – FAQ

1. Definition of a Rebuttable Shared Parenting Law

- a. A rebuttable shared parenting law would mandate that judges ensure children have meaningful and substantial involvement with both parents when they are fit, willing and able. This law would establish a presumption of a 50/50-time arrangement and require courts, when they deviate from this presumption, to explain with specificity the evidence and grounds upon which they are deviating. For the purposes of this report the terms “shared parenting” and “equal parenting” mean maximum time spent with each parent. These terms will be used interchangeably throughout this report.

2. What is the difference between shared parenting and co-parenting?

- a. In the report “Break the Silence” there is a stark contrast drawn between shared parenting and co-parenting to show the differentiation in scope of what the law **does do** and **does not do**. It allows for a clean comparison of what the law affects and does not affect. Rebuttable shared parenting does not try to solve the many issues involved in separation/divorce beyond allowing the child to benefit from having both parents equally involved in their lives. Rebuttable shared parenting laws will not solve where the children go to school etc.... these issues will remain for both parties to agree upon and are not included in the scope of rebuttable shared parenting laws. There is no change to the system regarding those issues. As currently, there may need to be attorneys or child custody investigations involved to help solve some of these issues. No change in that regard.

3. Does a judge maintain full authority to withhold a child from being with their parent if there is a safety concern?

- a. Yes. Rebuttable shared parenting laws allow at any time and under any circumstance, an attorney, custody investigator or others to bring irrefutable evidence to the judge who can withhold children from their parent for safety reasons. All it requires is for the judge (1) To have a preponderance of evidence and (2) Document on what grounds they are removing a parent from the child’s life.

4. Does moving children back and forth between houses create instability for the children?

- a. No. Moving back and forth between houses is only a short-term inconvenience in the life of a child, while removing a parent from equal time carries lifelong detrimental consequences for the children such as increased risk of suicide, dropping out of school, drug and alcohol use, teen pregnancy, child abuse and vulnerabilities to sex trafficking. Children that have two equal-time homes have a much larger social circle and enriched life as a result.

5. What effect will a Rebuttable Shared Parenting Law have on the current Family Mediation Program?

- a. Positive. With the largest conflict over child custody out of the way and with the removal of leverage using the children as “pawns in a chess game”; we should see an increase of success in the family mediation program.

6. Could this affect past judgments?

- a. Yes. This could affect past judgments if a child has been withheld/alienated from a parent without just cause. In these cases, a parent who still wants to be equally involved in the child's life could reopen a case. We will need to rely on judges to do the right thing in these cases with how reunification takes place to end the alienating abuse of the children. Depending on the severity the children have been abused, will dictate how/what is needed. This could be as simple as a judgment for equal shared parenting or the involvement of child counselors.

7. Will Rebuttable Shared Parenting Laws lead to an increase in domestic violence?

- a. No. The opposite is true. Kentucky passed rebuttable shared parenting laws in 2017 and domestic violence in the intimate personal relationship category dropped by approximately 50%. By removing conflict with the passage of rebuttable shared parenting laws, we can expect to see a drop in domestic violence.

8. Will Rebuttable Shared Parenting Laws lead to an increase in child abuse?

- a. No. The research and data show the opposite to be true. Equal parenting time has consistently shown lower, and declining, rates of child abuse and neglect.

9. Do Rebuttable Shared Parenting Laws lead to an increase of conflict in divorce/separation cases?

- a. No. The data shows otherwise. States with a presumptive shared parenting law are showing a decrease in conflict which has led to a decrease in domestic violence and child abuse as well.

10. What are some of the vulnerabilities we find in many sex trafficking victims that will be addressed with the implementation of a Rebuttable Shared Parenting Law?

- a. **Child Abuse and Childhood Trauma** - Parental Alienation is a severe form of child abuse and childhood trauma. PA will not be prevented with shared parenting, although research shows the effects of PA is minimal when children have equal shared time with parents. Child abuse and child trauma are major vulnerabilities often exploited in sex trafficking victims.
- b. **Instability in Parental Separation** – As it works today, the children suffer great instability in their lives as they are removed for the majority of the time from a fit, willing and able parent. An instability that the research and data show lead to many detrimental ills such as dropping out of school, doing drugs, joining gangs, Carrying guns, teen suicide and teenage pregnancy... This instability in parental separation will be minimized with rebuttable shared parenting laws in place. Instability in parental separation is a major vulnerability often exploited in sex trafficking victims.
- c. **Low Income/Financial Hardship** – the finances of the middle and lower class in our state are decimated as they utilize their life savings to fight over custody of their children. Attorneys' fees for a high conflict case often exceed well over \$100,000 for each parent. Most have very little money in savings, no longer own a house or have stable finances after the divorce/separation as a result. This is another vulnerability often exploited in sex trafficking victims.

11. Do Rebuttable Shared Parenting Laws lead to the children being used as “pawns in a chess game”?

- a. No. The opposite is true. They are currently being used as “pawns in a chess game” under the current law. Rebuttable shared parenting laws will eliminate the option to use them as “pawns” to gain financial leverage.

12. How do Rebuttable Shared Parenting Laws affect high conflict vs low conflict cases?

- a. In low conflict cases, both parties work together on issues including custody of the children. These parties will continue to work together without hindrance. Rebuttable shared parenting will have the most effect on high conflict cases where one or both parties, divorce attorneys, child custody investigators and judges are willing to support the alienation of the children from the other parent (abuse them) for financial gain, financial leverage or retaliation.

13. Is this a complex issue?

- a. No. Rebuttable shared parenting laws simply allow children to benefit from having two fit, able and willing parents in their lives. Shared parenting should not be confused with co-parenting issues. Those against rebuttable shared parenting laws will bring up co-parenting issues that should be addressed from a shared parenting starting point. After the children benefit from having both parents equally in their life, the parents may need to hire an attorney to decide what school they will attend or where they will live if one parent decides to leave the state etc. The weighted benefits of shared parenting far outweigh how often they are in one of the two physical houses their parents are in or where they will attend school. Again, these are co-parenting issues that should be agreed upon by the shared parents. If the parents cannot agree on these co-parenting issues, then it’s the proper time for an attorney, child custody investigator or judge to get involved to help steer or determine what is best for the children. This is already currently happening. No change here.

14. Does the public support Rebuttable Shared Parenting Laws?

- a. Yes. A state Poll of North Dakota ran in November of 2024 which shows 94% support for rebuttable shared parenting laws. In fact, out of 26 states polled to date, the lowest support for shared parenting laws was 84%!

15. Do Rebuttable Shared Parenting Laws require the judge to understand what a “fit” parent is?

- a. No. Rebuttable shared parenting laws do not require anyone to determine the many differences of “fitness” as a parent. What rebuttable shared parenting laws do is require the courts to determine if a parent is “unfit” to parent due to circumstantial evidence. There is a big difference. If a court is not able to show a parent is unfit due to circumstantial evidence, then the common sense and obvious answer is the parent is fit. Judges are already deciding if a parent is fit or unfit. In most high conflict cases, judges award joint decision-making responsibility. In other words, they believe both parents are fit to make the most critical decisions of the children yet are deciding to withhold a parent from equal residential responsibility.

16. How do Rebuttable Shared Parenting Laws affect businesses and our community?

- a. The research and data show that businesses will not see as much of a decrease in creativity and productivity as their employees will experience lower amounts of conflict in their personal lives. The research shows that employees perform better when they are not embroiled in high conflict custody cases. Rebuttable shared parenting is good ethics and business for North Dakota. With rebuttable shared parenting laws there would be less incarcerations and drug use as fewer children will be coming out of homes without equal parent involvement. Based on the results seen in Kentucky we could assume a large drop in domestic violence. These reductions would reduce the amount of tax money needed to fund the police, corrections facilities, social services and rehabilitation efforts. This would also make our cities safer for our families as we care for the children of the next generation. Currently the wealthy that profit from the induced conflict in our legal system often use the money to take lavish trips out of state or fund a second lake home in other states. With rebuttable shared parenting laws, most of the money would stay in the state comparatively as middle- and lower-class families are more likely to buy things they need such as housing, groceries, vehicles and pay for college tuition. Finally, with more of our children staying in school and going to college, we would have a stronger, more vibrant workforce in ND.

17. Would Rebuttable Shared Parenting Laws apply to closed cases automatically?

- a. No. This law would not apply to closed cases automatically. It will require the proper legal action to implement change.

18. Will this law require children to live equally in two separate states to maintain equal time?

- a. No. Although, it will require a judge to explain their decisions on these cases. Again, this is a “rebuttable” presumption about what’s in children’s best interest. Clearly, very long transportation times are a relevant factor in rebutting the presumption.

19. Have other states adopted Rebuttable Shared Parenting Laws or presumption of equal shared parenting laws?

- a. Yes. Kentucky passed the first rebuttable shared parenting presumption in 2017 (temporary orders) and 2018 (permanent orders). Since then, Arkansas (2021), West Virginia (2022), Florida (2023) and Missouri (2023) have passed strong equal shared parenting laws. South Dakota passed them in temporary orders in 2018.

20. Would there be a place for the “14 Best Interest Factors” to be used?

- a. Yes, it is in the best interest of the children to have both parents equally involved in their lives, when shared parenting is overturned by a judge for a reason with documentation, then the “14 Best Interest Factors” are applied. This is to ensure everyone (Judges, child custody investigators, divorce attorneys) are thinking about the best interest of the children when the true best interest of the children (equal parent involvement) cannot be met. Although, I would encourage that we have the judge get involved enough to know the answers to these best interest factors and fill them out themselves. Otherwise, it remains a document without any merit that is used for other purposes than the 14 best interest factors of children. Why would a

judge rule on a case that she/he does not understand these factors enough to share their thoughts?

21. Do Rebuttable Shared Parenting Laws take the influence of the children away from choosing one parent over the other?

- a. Yes. Rebuttable shared parenting laws will minimize all forms of abuse, including alienation of the children by either parent. It also removes the incentive for parents to abuse their children with parental alienation. If there is not a reason why the child should be removed from a parent, then equal parenting should be the default. Whether that child understands what is best for them or not. We teach our children to respect the road and look both ways before crossing, we do not let our children drink, smoke or make medical decisions that will have long lasting effects on them until their brains are more developed. Our laws do not let children do those things even if they really want to when their well-being is at stake. This should be treated the same way. Again, if there is a safety issue or other reason the child should not be with that parent then the judge will not give them equal parenting to begin with. In other words, the parents are fit until proven unfit. When they are not found to be fit then the children will already not be with those parents.

22. How does this affect child support?

- a. In closed cases that are reopened and equal shared parenting granted, then the child support could be affected. It is the greed for money and profit that led to the abuse and removal of the children in the first place from a loving parent. Our child support laws can be addressed if needed, but money and profit should not hold us back from doing what is in the best interest of our children, families and next generation.

23. Isn't quality of time more important than quantity of time?

- a. No.
- b. Child Abuse: Research and data show without the quantity of time the effects of the worst form of child abuse (parental alienation) occur rapidly. It is critical for both parents to be equally involved in the child's life immediately (during and after) separation or divorce.
- c. Consistency and Stability: Spending a large amount of time with children provides them with a sense of consistency and stability. Regular presence can help children feel more secure and supported, knowing that their parents are always there for them.
- d. Opportunities for Spontaneous Moments: Quantity time allows for more spontaneous and unplanned interactions, which can be just as meaningful as planned quality time. These moments can lead to unexpected bonding experiences and teachable moments.
- e. Building Routine and Structure: Regular time spent together helps establish routines and structures that are beneficial for children's development. This can include daily activities like meals, homework, and bedtime routines, which contribute to a child's sense of order and discipline.

- f. **Cumulative Impact:** The cumulative effect of spending a lot of time together can lead to stronger relationships. Even if individual moments are not always high-quality, the overall time spent together can build a deep and enduring bond.
- g. **Increased Opportunities for Learning:** More time together means more opportunities for parents to teach and guide their children through everyday activities. This can include practical skills, moral values, and social behaviors that are learned through consistent interaction.
- h. **Extended Family Time:** Grandma's, Grandpa's, Aunts, Uncles and Cousins are important in the influence and life of the children before and After separation and divorce. Limiting the quantity of time decreases their positive social influence, support and overall quality of time.

24. Is the mother-baby bond in infants more important than the father-baby bond?

No. If we do not allow enough time for father-infant bonding, then we introduce severe psychological damage to our infant children. Opponents use old cultural "ideas" to try to persuade people to believe that men and babies do not bond. These folks are either uninformed or purposefully try to mislead. Science and research say differently.

Below I share an excerpt from my research, but please research this topic for yourself. Go to MED MD or Mayo Clinic etc. and look up the fact that men undergo hormone, and brain changes the same way women do. There is a natural chemical, hormonal and brain change process that occurs and initiates a much-needed strong bond between infants and fathers. This bond is essential to a mentally healthy child and creates a stable environment for children.

Yes, men do bond with their newborn babies, and they experience hormonal changes that support this bond. When men become fathers, their brains and hormone levels undergo significant changes to help them connect with their babies.

Hormonal Changes:

Oxytocin: Often called the "love hormone," oxytocin levels increase in new fathers, promoting bonding, empathy, and nurturing behaviors.

Testosterone: Levels of testosterone tend to decrease, which may reduce aggression and make fathers more nurturing.

Prolactin: This hormone, which is also present in breastfeeding mothers, increases in fathers and is associated with caregiving behaviors.

Brain Changes: Studies have shown that new fathers experience changes in brain structure, particularly in areas related to emotional processing and executive

functioning. These changes help fathers become more attuned to their babies' needs and more engaged in caregiving.

These biological changes are nature's way of ensuring that fathers are equipped to bond with and care for their newborns, just as mothers do. It's fascinating how both parents undergo transformations to support their new roles!

25. Consideration #1

- a. Currently, if the primary custodial parent passes away due to a car accident, health issue, or other circumstances, the court typically grants full custody to the non-primary parent. This situation arises even though the court previously limited this parent's involvement in the children's lives. This inconsistency suggests that the judicial system recognizes both parents as initially fit for custody.

26. Consideration #2

- a. Judges do not typically personally complete the "14 Best Interest Factors" assessment, instead relying on others to do so. This is primarily because these factors are subjective rather than objective. While judges understand that opinions and hearsay should not influence courtroom decisions, such elements continue to create conflict in family court and often lead to the unjust removal of a healthy parent from a child's life.

27. Consideration #3

- a. As outlined in the report, North Dakota's current legislation pressures judges to designate one parent as the primary caregiver. However, this designation often coincides with granting "Joint Decision Making" authority to both parents. This indicates that both parents are recognized as mentally competent and capable of making critical decisions regarding their children's welfare. Despite having determined both parents to be fit and willing, judges often still opt to restrict one parent's involvement based on subjective criteria, hearsay, or personal beliefs.