

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS45397-LU-116A (03/01)

Short Title: Keep Both Parents in Life of Child.

(Public)

Sponsors: Senators Bryant, Ford, and Foushee (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR CONSIDERATION OF A MINIMUM AMOUNT OF TIME
WITH EACH PARENT WHEN DETERMINING THE TERMS OF CUSTODY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.2 reads as rewritten:

"§ 50-13.2. Who entitled to custody; terms of custody; visitation rights of grandparents; taking child out of State; consideration of parent's military service.

(a) An order for custody of a minor child entered pursuant to this section shall award the custody of such child to such person, agency, organization or institution as will best promote the interest and welfare of the child. In making the determination, the court shall consider all relevant factors including acts of domestic violence between the parties, the safety of the child, and the safety of either party from domestic violence by the other party. An order for custody must include written findings of fact that reflect the consideration of each of these factors and that support the determination of what is in the best interest of the child. Between the parents, whether natural or adoptive, ~~no presumption shall apply as to who will better promote the interest and welfare of the child.~~ it is the policy of the State to encourage active and ongoing participation of both parents in the child's life and time with both parents when it is in the child's best interest, regardless of the parents' present or past marital status, subject to laws regarding abuse, neglect, and dependency. Joint physical and legal custody to the parents and the opportunity to submit a jointly agreed upon parenting plan shall be considered upon the request of either parent.

(b) An order for custody of a minor child may grant joint physical and legal custody to the parents, exclusive custody to one person, agency, organization, or institution, or grant custody to two or more persons, agencies, organizations, or institutions. Any order for custody shall include such terms, including visitation, as will best promote the interest and welfare of the child. In determining the terms of custody and upon the request of either parent, the court shall consider a minimum of forty percent (40%) time annually with each parent unless the arrangement would not be in the best interest of the child, would risk the safety of the child or other party, including risk associated with acts of domestic violence, or any other findings the court deems applicable. The inability of the parents to cooperate with each other in parenting the child shall not be a factor that weighs against the best interests of the child in having minimum visitation time with both parents. If the court finds that domestic violence has occurred, the court shall enter such orders that best protect the children and party who were the victims of domestic violence, in accordance with the provisions of G.S. 50B-3(a1)(1), (2), and (3). If a party is absent or relocates with or without the children because of an act of domestic violence, the absence or relocation shall not be a factor that weighs against the party in



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1 determining custody or visitation. Absent an order of the court to the contrary, each parent shall
2 have equal access to the records of the minor child involving the health, education, and welfare
3 of the child.

4"

5 **SECTION 2.** This act is effective when it becomes law.