

DOMESTIC RELATIONS CODE (23 PA.C.S.) - FACTORS TO CONSIDER WHEN
AWARDING CUSTODY

Act of Jun. 30, 2025, P.L. 18, No. 11

Cl. 23

Session of 2025

No. 2025-11

HB 378

AN ACT

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child custody, further providing for factors to consider when awarding custody.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 5328(a) of Title 23 of the Pennsylvania Consolidated Statutes, amended April 15, 2024 (P.L.24, No.8), is amended and the section is amended by adding a subsection to read:

§ 5328. Factors to consider when awarding custody.

(a) Factors.--In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving substantial weighted consideration to the factors specified under paragraphs (1), (2), (2.1) and (2.2) which affect the safety of the child, including the following:

(1) Which party is more likely to ensure the safety of the child.

(2) The present and past abuse committed by a party or member of the party's household, which may include past or current protection from abuse or sexual violence protection orders where there has been a finding of abuse.

(2.1) The information set forth in section 5329.1(a) (relating to consideration of child abuse and involvement with protective services).

(2.2) Violent or assaultive behavior committed by a party.

(2.3) [Which party is more likely to encourage and permit frequent and continuing contact between the child and another party if contact is consistent with the safety needs of the child.] **The level of cooperation and conflict between the parties, including:**

(i) **which party is more likely to encourage and permit frequent and continuing contact between the child and the other party or parties if contact is consistent with the safety needs of the child; and**

(ii) **the attempts by a party to turn the child against the other party, except in cases of abuse where reasonable safety measures are necessary to protect the safety of the child. A party's good faith and reasonable effort to protect the safety of a child or self shall not be considered evidence of unwillingness or inability to cooperate with the other party. A party's reasonable concerns for the safety of the child and the party's reasonable efforts to protect the child shall not be considered attempts to turn the child against the other party. A child's deficient or negative relationship with a party shall not be presumed to be caused by the other party.**

(3) [The parental duties performed by each party on behalf of the child.] **A willingness and ability of a party to prioritize the needs of the child by providing appropriate care, stability and continuity for the child, considering the parental duties performed by the party on behalf of the child in the past and whether the party is willing and able to perform the duties in the future, and attend to the daily physical, emotional, developmental, educational and special needs of the child.**

(4) The need for stability and continuity in the child's education, family life and community life, except if changes are necessary to protect the safety of the child or a party.

[(5) The availability of extended family.]

(6) The child's sibling **and other familial** relationships.

(7) The well-reasoned preference of the child, based on the child's developmental stage, maturity and judgment.

[(8) The attempts of a party to turn the child against the other party, except in cases of abuse where reasonable safety measures are necessary to protect the safety of the child. A party's reasonable concerns for the safety of the child and the party's reasonable efforts to protect the child shall not be considered attempts to turn the child against the other party. A child's deficient or negative relationship with a party shall not be presumed to be caused by the other party.]

(9) Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.

(10) Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.]

(11) The proximity of the residences of the parties.

(12) Each party's **employment schedule and** availability to care for the child or ability to make appropriate child-care arrangements.

[(13) The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child or self from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.]

(14) The history of drug or alcohol abuse of a party or member of a party's household.

(15) The mental and physical condition of a party or member of a party's household.

(16) Any other relevant factor.

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(d) List of custody factors.--Within 30 days of the receipt of a custody complaint, petition for the modification of custody or petition to intervene in matters relating to custody, the court shall provide all parties named in the complaint or petition with a copy of this section.

Section 2. This act shall take effect in 60 days.

APPROVED--The 30th day of June, A.D. 2025.

JOSH SHAPIRO