



**STATE STATUTES**  
CURRENT THROUGH JUNE 2020

# Determining the Best Interests of the Child

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Courts make a variety of decisions that affect children, including placement and custody determinations, safety and permanency planning, and proceedings for termination of parental rights. Whenever a court makes such a determination, judges must weigh whether the decision will be in the "best interests" of the child.

A review of State laws indicate that all States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands have statutes describing the factors that must be considered to ensure that decisions regarding a child's custody or placement serve that child's best interests.

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## BEST INTERESTS DEFINITION

Although there is no standard definition of "best interests of the child," the term generally refers to the deliberation that courts undertake when deciding what type of services, actions, and orders will best serve a child as well as who is best suited to take care of a child. "Best interests" determinations are generally made by considering a number of factors related to the child's circumstances and the parent or caregiver's circumstances and capacity to parent, with the child's ultimate safety and well-being the paramount concern.

## GUIDING PRINCIPLES OF BEST INTERESTS DETERMINATIONS

State statutes frequently reference overarching goals, purposes, and objectives that shape the analysis in making best interests determinations. The following are among the most frequently stated guiding principles:

- The importance of family integrity and preference for avoiding removal of the child from his/her home (approximately 28 States, American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands)<sup>1</sup>
- The health, safety, and/or protection of the child (21 States and the Northern Mariana Islands)<sup>2</sup>

- The importance of timely permanency decisions (19 States and the U.S. Virgin Islands)<sup>3</sup>
- The assurance that a child removed from his/her home will be given care, treatment, and guidance that will assist the child in developing into a self-sufficient adult (12 States, American Samoa, and Guam)<sup>4</sup>

## BEST INTERESTS FACTORS

Approximately 22 States and the District of Columbia list in their statutes specific factors for courts to consider in making determinations regarding the best interests of the child.<sup>5</sup> While the factors vary considerably from State to State, some factors commonly required include the following:

- The emotional ties and relationships between the child and his or her parents, siblings, family and household members, or other caregivers (15 States and the District of Columbia)<sup>6</sup>
- The capacity of the parents to provide a safe home and adequate food, clothing, and medical care (10 States)<sup>7</sup>
- The mental and physical health needs of the child (nine States and the District of Columbia)<sup>8</sup>

<sup>1</sup> Alabama, Alaska, California, Colorado, Georgia, Hawaii, Idaho, Indiana, Kansas, Maine, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Utah, Washington, West Virginia, and Wyoming. The word "approximately" is used to stress the fact that States frequently amend their laws. This information is current as of June 2020.

<sup>2</sup> Arizona, Arkansas, Colorado, Georgia, Hawaii, Idaho, Illinois, Kansas, Louisiana, Massachusetts, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, Oklahoma, Pennsylvania, Utah, Washington, West Virginia, and Wyoming

<sup>3</sup> Alabama, Alaska, California, Hawaii, Idaho, Iowa, Kansas, Louisiana, Maine, Nebraska, New Mexico, New York, North Carolina, Oklahoma, South Carolina, Texas, Vermont, Washington, and West Virginia

<sup>4</sup> Alabama, Colorado, Georgia, Hawaii, Idaho, Kansas, Mississippi, Oklahoma, Pennsylvania, Rhode Island, South Carolina, and West Virginia

<sup>5</sup> Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Nevada, North Dakota, Ohio, Oregon, South Dakota, Tennessee, Texas, Vermont, Virginia, and Wisconsin

<sup>6</sup> Connecticut, Delaware, Florida, Hawaii, Illinois, Kansas, Maryland, Massachusetts, Michigan, North Dakota, Ohio, Oregon, Tennessee, Vermont, and Virginia

<sup>7</sup> Florida, Georgia, Hawaii, Illinois, Maryland, Michigan, North Dakota, Texas, Vermont, and Wisconsin

<sup>8</sup> Connecticut, Delaware, Florida, Georgia, Kansas, Maine, Michigan, Nevada, and Virginia

- The mental and physical health of the parents (nine States and the District of Columbia)<sup>9</sup>
- The presence of domestic violence in the home (nine States)<sup>10</sup>

In eight of these States and the District of Columbia, all the factors listed in the statute must be considered.<sup>11</sup> For example, Illinois law provides a list of the factors that, within the context of the child's age and developmental needs, "shall be considered" in determining best interests. Similarly, the District of Columbia requires that courts consider each factor listed in its best interests statute in making such decisions. In the remaining 14 States whose statutes list best interests factors, courts making best interests determinations are directed to consider all relevant factors, not only those specifically listed in the statute.<sup>12</sup>

Three States also list factors that should not be considered in the best interests analysis. For example, Connecticut law states that the determination of the best interests of the child shall not be based on the consideration of the socioeconomic status of the birth parent or caregiver. Delaware prohibits courts from assuming that one parent, because of his or her sex, is better qualified than the other parent to act as a custodian or primary residential parent. Idaho does not permit discrimination on the basis of a parent's disability.

Statutes in the remaining 28 States, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands provide more general guidance and give more discretion to the courts to make best interests determinations.<sup>13</sup> Under Alabama law, for example, courts are provided with a set of goals to "facilitate the care, protection, and discipline of children" who come within their jurisdiction.

In California and Iowa, a best interests determination for American Indian/Alaska Native children must include steps to maintain Tribal relationships and preserve the child's unique Tribal culture and values. When out-of-home care is needed, the child must be placed, whenever possible, with a family that can help the child maintain these connections, as required by the Federal Indian Child Welfare Act (P.L. 95-608).

## OTHER CONSIDERATIONS

Other factors that courts commonly take into consideration in making best interests determinations include the following:

- **Federal and/or State constitution protections.** For example, New Hampshire law provides that its processes related to reports of child abuse or neglect are to be carried out within a judicial framework that recognizes and enforces the constitutional and other rights of the parties involved. Pennsylvania's statute states that it shall be interpreted so as to provide a means

<sup>9</sup> Delaware, Georgia, Kentucky, Michigan, North Dakota, South Dakota, Tennessee, Texas, and Virginia

<sup>10</sup> Delaware, Georgia, Kentucky, Michigan, North Dakota, Oregon, Tennessee, Texas, and Virginia

<sup>11</sup> Georgia, Illinois, Maine, Maryland, Michigan, Oregon, Vermont, and Virginia

<sup>12</sup> Connecticut, Delaware, Florida, Hawaii, Kansas, Kentucky, Massachusetts, Nevada, North Dakota, Ohio, South Dakota, Tennessee, Texas, and Wisconsin

<sup>13</sup> Alabama, Alaska, Arizona, Arkansas, California, Colorado, Idaho, Indiana, Iowa, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Utah, Washington, West Virginia, and Wyoming

through which parties are afforded a fair hearing and assured the recognition of their constitutional and legal rights.<sup>14</sup>

- **The importance of maintaining sibling and other close family bonds.** For example, Alaska law notes the importance of frequent, regular, and reasonable visitation with parents and family members when a child has been removed from the home. Florida considers the love, affection, and other emotional ties between the child and his or her parents, siblings, and other relatives to be important in determining the manifest interests of the child.<sup>15</sup>
- **The child's wishes.** Approximately 12 States and the District of Columbia require courts to consider the child's wishes when making a determination of best interests.<sup>16</sup> In making this determination, the court will consider whether the child is of an age and level of maturity to express a reasonable preference.

<sup>14</sup> Other States that address the issue of parent and/or child rights within their best interests statutes include Georgia, Missouri, Montana, Nevada, New Mexico, New York, North Carolina, Oklahoma, South Dakota, Tennessee, Utah, Washington, West Virginia, and Puerto Rico.

<sup>15</sup> Other States that address the importance of maintaining family and sibling relationships include California, Colorado, Connecticut, Georgia, Hawaii, Idaho, Illinois, Kansas, Maine, Maryland, Minnesota, Missouri, Montana, New Hampshire, Ohio, Oklahoma, Oregon, Pennsylvania, Vermont, Virginia, West Virginia, and Wisconsin as well as the District of Columbia and the U.S. Virgin Islands.

<sup>16</sup> Delaware, Florida, Georgia, Illinois, Maine, Massachusetts (when the child is age 12 or older), Michigan, North Dakota, Ohio, Rhode Island, Virginia, and Wisconsin

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

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## ALABAMA

*Current Through June 2020*

**Citation: Ala. Code § 12-15-101**

The purpose of this chapter is to facilitate the care, protection, and discipline of children who come within the jurisdiction of the juvenile court, while acknowledging the responsibility of the juvenile court to preserve the public peace and security. In furtherance of this purpose, the following goals have been established for the juvenile court:

- To preserve and strengthen the child's family whenever possible, including improvement of home environment
- To remove the child from the custody of his or her parents only when it is judicially determined to be in his or her best interests or for the safety and protection of the public
- To reunite a child with his or her parents as quickly and as safely as possible when the child has been removed from the custody of his or her parents unless reunification is judicially determined not to be in the best interests of the child
- To secure for any child removed from parental custody the necessary treatment, care, guidance, and discipline to assist him or her in becoming a responsible, productive member of society
- To promote a continuum of services for children and their families from prevention to aftercare, considering wherever possible, prevention, diversion, and early intervention
- To achieve the foregoing goals in the least restrictive setting necessary, with a preference at all times for the preservation of the family and the integration of parental accountability and participation in treatment and counseling programs

This chapter shall be liberally construed to the end that each child coming within the jurisdiction of the juvenile court shall receive the care, guidance, and control, preferably in his or her own home, necessary for the welfare of the child and the best interests of the State.

## ALASKA

*Current Through June 2020*

**Citation: Alaska Stat. § 47.05.065(4)-(5)**

It is in the best interests of a child who has been removed from the child's own home for the State to apply the following principles in resolving the situation:

- The child should be placed in a safe, secure, and stable environment.
- The child should not be moved unnecessarily.
- A planning process should be followed to lead to permanent placement of the child.
- Every effort should be made to encourage psychological attachment between the adult caregiver and the child.
- Frequent, regular, and reasonable visitation with the parent or guardian and family members should be encouraged.
- Parents and guardians must actively participate in family support services to facilitate the child's being able to remain in the home. When children are removed from the home, the parents and guardians must actively participate in family support services to make return of their children to the home possible.
- To the extent practicable, the Department of Health and Social Services should enable a child's contact with previous out-of-home caregivers when appropriate and in the best interests of the child.

Numerous studies establish that:

- Children undergo a critical attachment process before the time they reach 6 years of age.
- A child who has not attached with an adult caregiver during this critical stage will suffer significant emotional damage that frequently leads to chronic psychological problems and antisocial behavior when the child reaches adolescence and adulthood.
- It is important to provide an expedited placement procedure to ensure that all children, especially those under age 6, who have been removed from their homes are placed in permanent homes in a timely manner.

**Citation: Alaska Stat. § 47.10.082**

In making its dispositional order, the court shall keep the health and safety of the child as the court's paramount concern and consider the following:

- The best interests of the child
- The ability of the State to take custody and to care for the child and to protect the child's best interests
- The potential harm to the child caused by removal of the child from the home and family environment

## **AMERICAN SAMOA**

*Current Through June 2020*

**Citation: Ann. Code § 45.0102**

The legislature declares that the purposes of this title are to do the following:

- Secure for each child subject to these provisions such care and guidance, preferably with his or her own family, as will best serve his or her welfare and the interests of Samoan society
- Preserve and strengthen aiga (extended family) ties whenever possible
- Remove a child from the custody of his or her parents only when his or her welfare and safety or the protection of the public would otherwise be endangered
- Secure for any child removed from the custody of his or her parents the necessary care, guidance, and discipline to assist him or her in becoming a responsible and productive member of society

To carry out these purposes, the provisions of this title shall be liberally construed.

## **ARIZONA**

*Current Through June 2020*

**Citation: Rev. Stat. § 8-845(B)**

In reviewing the status of the child and in determining its order of disposition, the court shall consider the health and safety of the child as a paramount concern.

**Citation: Rev. Stat. § 8-847(D)**

At any periodic review hearing, the court shall consider the health and safety of the child as a paramount concern.

## ARKANSAS

*Current Through June 2020*

**Citation: Ann. Code § 9-27-102**

The General Assembly recognizes that children are defenseless and that there is no greater moral obligation upon the General Assembly than to provide for the protection of our children, and that our child welfare system needs to be strengthened by establishing a clear policy of the State that the best interests of the children must be paramount and shall have precedence at every stage of juvenile court proceedings. The best interests of the child shall be the standard for juvenile court determinations as to whether a child should be reunited with his or her family or removed from or remain in a home wherein the child has been abused or neglected.

## CALIFORNIA

*Current Through June 2020*

**Citation: Welf. & Inst. Code § 16000(a)**

It is the intent of the legislature to preserve and strengthen a child's family ties whenever possible, removing the child from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public. If a child is removed from the physical custody of his or her parents, preferential consideration shall be given whenever possible to the placement of the child with a relative, as required by law. If the child is removed from his or her own family, it is the purpose of this chapter to secure as nearly as possible for the child the custody, care, and discipline equivalent to that which should have been given to the child by his or her parents. It is further the intent of the legislature to reaffirm its commitment to children who are in out-of-home placement to live in the least restrictive family setting promoting normal childhood experiences that is suited to meet the child's or youth's individual needs, and to live as close to the child's family as possible. Family reunification services shall be provided for expeditious reunification of the child with his or her family, as required by law. If reunification is not possible or likely, a permanent alternative shall be developed.

**Citation: Welf. & Inst. Code § 16000(b)-(c)**

It is further the intent of the legislature that all children live with a committed, permanent, and nurturing family. Services and supports should be tailored to meet the needs of the individual child and family being served, with the ultimate goal of maintaining the family, or when this is not possible, transitioning the child or youth to a permanent family or preparing the child or youth for a successful transition into adulthood. When needed, short-term residential therapeutic program services are a short-term, specialized, and intensive intervention that is just one part of a continuum of care available for children, youth, young adults, and their families.

It is further the intent of the legislature to ensure that all pupils in foster care and those who are homeless as defined by the Federal McKinney-Vento Homeless Assistance Act have the opportunity to meet the challenging State pupil academic achievement standards to which all pupils are held. In fulfilling their responsibilities to pupils in foster care, educators, county child-placing agencies, care providers, advocates, and the juvenile courts shall work together to maintain stable school placements; ensure that each pupil is placed in the least restrictive educational programs; and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions must be based on the best interests of the child.

**Citation: Fam. Code § 175(a)**

The legislature finds and declares the following:

There is no resource that is more vital to the continued existence and integrity of recognized Indian Tribes than their children, and the State of California has an interest in protecting Indian children who are members of, or are eligible for membership in, an Indian Tribe. The State is committed to protecting the essential Tribal relations and best interests of an Indian child by promoting practices, in accordance with the Indian Child Welfare Act (25 U.S.C. § 1901, et seq.) and other applicable law, designed to prevent the child's involuntary out-of-home placement and, whenever the placement is necessary or ordered, by placing the child, whenever possible, in a placement that reflects the unique values of the child's Tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the child's Tribe and Tribal community.

It is in the interests of an Indian child that the child's membership in the child's Indian Tribe and connection to the Tribal community be encouraged and protected, regardless of any of the following:

- Whether the child is in the physical custody of an Indian parent or Indian custodian at the commencement of a child custody proceeding
- Whether the parental rights of the child's parents have been terminated
- Where the child has resided or been domiciled

**Citation: Fam. Code § 175(b)**

In all Indian child custody proceedings the court shall consider all of the findings contained in subdivision (a), strive to promote the stability and security of Indian Tribes and families, comply with the Federal Indian Child Welfare Act, and seek to protect the best interests of the child. Whenever an Indian child is removed from a foster care home or institution, guardianship, or adoptive placement for the purpose of further foster care, guardianship, or adoptive placement, placement of the child shall be in accordance with the Indian Child Welfare Act.

## **COLORADO**

*Current Through June 2020*

**Citation: Rev. Stat. § 19-1-102(1), (1.5)**

The General Assembly declares that the purposes of this title are the following:

- To secure for each child subject to these provisions such care and guidance, preferably in his or her own home, as will best serve his or her welfare and the interests of society
- To preserve and strengthen family ties whenever possible, including improvement of the home environment
- To remove a child from the custody of his or her parents only when his or her welfare and safety or the protection of the public would otherwise be endangered and, in either instance, for the courts to proceed with all possible speed to a legal determination that will serve the best interests of the child
- To secure for any child removed from the custody of his or her parents the necessary care, guidance, and discipline to assist him or her in becoming a responsible and productive member of society

The General Assembly declares that it is in the best interests of the child who has been removed from his or her own home to have the following guarantees:

- To be placed in a secure and stable environment
- To not be indiscriminately moved from foster home to foster home
- To have assurance of long-term permanency planning

## CONNECTICUT

*Current Through June 2020*

**Citation: Gen. Stat. § 45a-719**

'Best interests of the child' shall include, but not be limited to, a consideration of the age of the child, the nature of the relationship of the child with his or her caregiver, the length of time the child has been in the custody of the caregiver, the nature of the relationship of the child with the birth parent, the length of time the child has been in the custody of the birth parent, any relationship that may exist between the child and siblings or other children in the caregiver's household, and the psychological and medical needs of the child. The determination of the best interests of the child shall not be based on a consideration of the socioeconomic status of the birth parent or the caregiver.

## DELAWARE

*Current Through June 2020*

**Citation: Ann. Code Tit. 13, § 722**

The court shall determine the legal custody and residential arrangements for a child in accordance with the best interests of the child. In determining the best interests of the child, the court shall consider all relevant factors, including the following:

- The wishes of the child's parent or parents as to his or her custody and residential arrangements
- The wishes of the child as to his or her custodian(s) and residential arrangements
- The interaction and interrelationship of the child with his or her parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife with a parent of the child, any other residents of the household or persons who may significantly affect the child's best interests
- The child's adjustment to his or her home, school, and community
- The mental and physical health of all individuals involved
- Past and present compliance by both parents with their rights and responsibilities to their child
- Evidence of domestic violence
- The criminal history of any party or any other resident of the household, including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense

The court shall not presume that one parent, because of his or her sex, is better qualified than the other parent to act as a joint or sole legal custodian for a child or as the child's primary residential parent, nor shall it consider conduct of a proposed sole or joint custodian or primary residential parent that does not affect his or her relationship with the child.

## DISTRICT OF COLUMBIA

*Current Through June 2020*

**Citation: Ann. Code § 16-2353**

A judge may enter an order for the termination of the parent and child relationship when the judge finds from the evidence presented, after giving due consideration to the interests of all parties, that the termination is in

the best interests of the child. In determining whether it is in the child's best interests that the parent and child relationship be terminated, a judge shall consider each of the following factors:

- The child's need for continuity of care and caregivers and for timely integration into a stable and permanent home, taking into account the differences in the development and the concept of time of children of different ages
- The physical, mental, and emotional health of all individuals involved to the degree that such affects the welfare of the child, the decisive consideration being the physical, mental, and emotional needs of the child
- The quality of the interaction and interrelationship of the child with his or her parent, sibling, relative, and/or caregivers, including the foster parent
- Whether the child was left by his or her parent, guardian, or custodian in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child was ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship, or contact with the child
- To the extent feasible, the child's opinion of his or her own best interests in the matter
- Evidence that drug-related activity continues to exist in a child's home environment after intervention and services have been provided by law

## **FLORIDA**

*Current Through June 2020*

**Citation: Ann. Stat. § 39.810**

For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to, the following:

- Any suitable permanent custody arrangement with a relative of the child
- The ability and disposition of the parent(s) to provide the child with food, clothing, medical care, other remedial care, and other material needs
- The capacity of the parent(s) to care for the child to the extent that the child's safety; well-being; and physical, mental, and emotional health will not be endangered upon the child's return home
- The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child
- The love, affection, and other emotional ties existing between the child and the child's parent(s), siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties
- The likelihood of an older child remaining in long-term foster care upon termination of parental rights due to emotional or behavioral problems or any special needs of the child
- The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties
- The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity
- The depth of the relationship existing between the child and the present custodian
- The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference
- The recommendations for the child provided by the child's guardian ad litem or legal representative

## GEORGIA

*Current Through June 2020*

### **Citation: Ann. Code § 15-11-1**

The purpose of this chapter is to secure for each child who comes within the jurisdiction of the juvenile court such care and guidance, preferably in his or her own home, as will secure his or her moral, emotional, mental, and physical welfare as well as the safety of both the child and community. It is the intent of the General Assembly to promote a juvenile justice system that will protect the community, impose accountability for violations of law, provide treatment and rehabilitation, and equip juvenile offenders with the ability to live responsibly and productively. It is the intent of the General Assembly to preserve and strengthen family relationships, countenancing the removal of a child from his or her home only when State intervention is essential to protect such child and enable him or her to live in security and stability. In every proceeding, this chapter seeks to guarantee due process of law, as required by the Constitutions of the United States and the State of Georgia, through which every child and his or her parent and all other interested parties are assured fair hearings at which legal rights are recognized and enforced. Above all, this chapter shall be liberally construed to reflect that the paramount child welfare policy of this State is to determine and ensure the best interests of its children.

### **Citation: Ann. Code § 15-11-26(1)-(9)**

Whenever a best interests determination is required, the court shall consider and evaluate all of the factors affecting the best interests of the child in the context of the child's age and developmental needs. Such factors shall include the following:

- The physical safety and welfare of the child, including food, shelter, health, and clothing
- The love, affection, bonding, and emotional ties existing between the child and each parent or person available to care for the child
- The love, affection, bonding, and emotional ties existing between the child and his or her siblings, half-siblings, and stepsiblings and the residence of such other children
- The child's need for permanence, including the child's need for stability and continuity of relationships with his or her parent, siblings, other relatives, and any other person who has provided significant care to the child
- The child's sense of attachments, including his or her sense of security and familiarity, and continuity of affection for the child
- The capacity and disposition of each parent or person available to care for the child to give him or her love, affection, and guidance and to continue the education and rearing of the child
- The home environment of each parent or person available to care for the child, considering the promotion of the child's nurturance and safety rather than superficial or material factors
- The stability of the family unit and the presence or absence of support systems within the community to benefit the child
- The mental and physical health of all individuals involved

### **Citation: Ann. Code § 15-11-26(10)-(20)**

Factors to consider when making a determination of best interests also include the following:

- The home, school, and community record and history of the child, as well as any health or educational special needs of the child
- The child's community ties, including church, school, and friends
- The child's background and ties, including familial, cultural, and religious

- The least disruptive placement alternative for the child
- The uniqueness of every family and child
- The risks attendant to entering and being in substitute care
- The child's wishes and long-term goals
- The preferences of the persons available to care for the child
- Any evidence of family violence; substance abuse; criminal history; or sexual, mental, or physical child abuse in any current, past, or considered home for the child
- Any recommendation by a court-appointed custody evaluator or guardian ad litem
- Any other factors considered by the court to be relevant and proper to its determination

## **GUAM**

*Current Through June 2020*

**Citation: Ann. Code Tit. 19, § 5129**

This chapter shall be liberally construed to the end that each child within the jurisdiction of the court shall receive such care, guidance, and control, preferably in his or her home, as will enhance the child's welfare and be in the best interests of the territory; then, when such child is removed from the control of his or her parents, the court shall secure such care as nearly as possible equivalent to that which should have been given to him or her by the parents.

## **HAWAII**

*Current Through June 2020*

**Citation: Rev. Stat. § 587A-2**

The policy and purpose of this chapter is to provide children with prompt and ample protection from the harms detailed herein, with an opportunity for timely reconciliation with their families if the families can provide safe family homes, and with timely and appropriate service or permanent plans to ensure the safety of the children so they may develop and mature into responsible, self-sufficient, law-abiding citizens.

The service plan shall work toward the child's remaining in the family home, when the family home can be immediately made safe with services, or the child's returning to a safe family home. The service plan shall be carefully formulated with the family in a timely manner. Every reasonable opportunity should be provided to help the child's legal custodian succeed in remedying the problems that put the child at substantial risk of being harmed in the family home. Each appropriate resource, public and private, family and friend, should be considered and used to maximize the legal custodian's potential for providing a safe family home for the child. Full and careful consideration shall be given to the religious, cultural, and ethnic values of the child's legal custodian when service plans are being discussed and formulated. Where the court has determined, by clear and convincing evidence, that the child cannot be returned to a safe family home, the child shall be permanently placed in a timely manner.

**Citation: Rev. Stat. § 587A-2**

This chapter creates within the jurisdiction of the family court a child protective act to make paramount the safety and health of children who have been harmed or are in life circumstances that threaten harm.

Furthermore, this chapter makes provisions for the service, treatment, and permanent plans for these children and their families.

The legislature finds that children deserve and require competent, responsible parenting and safe, secure, loving, and nurturing homes. The legislature finds that children who have been harmed or are threatened with harm are less likely than other children to realize their full educational, vocational, and emotional potential and become law-abiding, productive, self-sufficient citizens, and are more likely to become involved with the mental health system, the juvenile justice system, or the criminal justice system, as well as become an economic burden on the State. The legislature finds that prompt identification, reporting, investigation, services, treatment, adjudication, and disposition of cases involving children who have been harmed or are threatened with harm are in the children's, their families', and society's best interests because the children are defenseless, exploitable, and vulnerable. The legislature recognizes that many relatives are willing and able to provide a nurturing and safe placement for children who have been harmed or are threatened with harm.

**Citation: Rev. Stat. § 587A-2**

The policy and purpose of this chapter includes the protection of children who have been harmed or are threatened with harm by doing the following:

- Providing assistance to families to address the causes for abuse and neglect
- Respecting and using each family's strengths, resources, culture, and customs
- Ensuring that families are meaningfully engaged and children are consulted in an age-appropriate manner in case planning
- Enlisting the early and appropriate participation of family and the family's support networks
- Respecting and encouraging the input and views of caregivers
- Ensuring a permanent home through timely adoption or other permanent living arrangement, if safe reunification with the family is not possible

The child protective services under this chapter shall be provided with every reasonable effort to be open, accessible, and communicative to the persons affected by a child protective proceeding without endangering the safety and best interests of the child under this chapter.

This chapter shall be liberally construed to serve the best interests of the children affected and the purpose and policies set forth herein.

## **IDAHO**

*Current Through June 2020*

**Citation: Idaho Code § 16-1601**

The policy of the State of Idaho is hereby declared to be the establishment of a legal framework conducive to the judicial processing, including periodic review of child abuse, abandonment, and neglect cases and the protection of any child whose life, health, or welfare is endangered. At all times, the health and safety of the child shall be the primary concern.

Each child coming within the purview of this chapter shall receive, preferably in his or her own home, the care, guidance, and control that will promote his or her welfare and the best interests of the State of Idaho; and if he or she is removed from the control of one or more of his or her parents, guardian, or other custodian, the State

shall secure adequate care for him or her, provided, however, that the State of Idaho shall, to the fullest extent possible, seek to preserve, protect, enhance, and reunite the family relationship.

Nothing in this chapter shall be construed to allow discrimination on the basis of disability. This chapter seeks to coordinate efforts by State and local public agencies, in cooperation with private agencies and organizations, citizens' groups, and concerned individuals, to do the following:

- Preserve the privacy and unity of the family, whenever possible
- Take such actions as may be necessary and feasible to prevent the abuse, neglect, abandonment, or homelessness of children
- Take such actions as may be necessary to provide the child with permanency, including concurrent planning
- Clarify for the purpose of this act the rights and responsibilities of parents with joint legal or joint physical custody of children at risk
- Maintain sibling bonds by placing siblings in the same home when possible and support or facilitate sibling visitation when not, unless such contact is not in the best interests of one or more of the children

## ILLINOIS

*Current Through June 2020*

**Citation: Comp. Stat. Ch. 705, § 405/1-3(4.05)**

Whenever a 'best interests' determination is required, the following factors shall be considered in the context of the child's age and developmental needs:

- The physical safety and welfare of the child, including food, shelter, health, and clothing
- The development of the child's identity
- The child's background and ties, including familial, cultural, and religious
- The child's sense of attachments, including the following:
  - Where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel love, attachment, and a sense of being valued)
  - The child's sense of security
  - The child's sense of familiarity
  - Continuity of affection for the child
  - The least disruptive placement alternative for the child
- The child's wishes and long-term goals
- The child's community ties, including church, school, and friends
- The child's need for permanence, which includes the child's need for stability and continuity of relationships with parent figures, siblings, and other relatives
- The uniqueness of every family and child
- The risks attendant to entering and being in substitute care
- The preferences of the persons available to care for the child

## INDIANA

*Current Through June 2020*

### **Citation: Ann. Code § 31-34-19-6**

If consistent with the safety of the community and the best interests of the child, the juvenile court shall enter a dispositional decree that:

- Is in the least restrictive (most family-like) and most appropriate setting available
- Is close to the parents' home, consistent with the best interests and special needs of the child
- Interferes least with family autonomy
- Is least disruptive of family life
- Imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian
- Provides a reasonable opportunity for participation by the child's parent, guardian, or custodian
- Provides a reasonable opportunity for the child's parent who is incarcerated and has maintained a meaningful role in the child's life to maintain a relationship with the child

## IOWA

*Current Through June 2020*

### **Citation: Ann. Stat. § 232.104(1)(c)**

During the permanency hearing, the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court and the reasonable efforts made concerning the child. Upon completion of the hearing, the court shall enter written findings and make a determination based on identifying a primary permanency goal for the child.

### **Citation: Ann. Stat. § 232B.2**

The State is committed to protecting the essential Tribal relations and best interests of an Indian child by promoting practices, in accordance with the Federal Indian Child Welfare Act and other applicable law, designed to prevent the child's voluntary or involuntary out-of-home placement and, whenever such placement is necessary or ordered, by placing the child, whenever possible, in a foster home, adoptive home, or other type of custodial placement that reflects the unique values of the child's Tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the child's Tribe and Tribal community.

## KANSAS

*Current Through June 2020*

### **Citation: Ann. Stat. § 38-2201(b)**

The code shall be liberally construed to carry out the policies of the State, which are to do the following:

- Consider the safety and welfare of a child to be paramount in all proceedings under the code
- Provide that each child who comes within the provisions of the code shall receive the care, custody, guidance, control, and discipline that will best serve the child's welfare and the interests of the State, preferably in the child's home and recognizing that the child's relationship with such child's family is important to the child's well-being

- Make the ongoing physical, mental, and emotional needs of the child decisive considerations in proceedings under this code
- Acknowledge that the time perception of a child differs from that of an adult and to dispose of all proceedings under this code without unnecessary delay
- Encourage the reporting of suspected child abuse and neglect
- Investigate reports of suspected child abuse and neglect thoroughly and promptly
- Provide for the protection of children who have been subject to physical, mental, sexual, or emotional abuse or neglect
- Provide preventative and rehabilitative services, when appropriate, to abused and neglected children and their families so, if possible, the families can remain together without further threat to the children
- Provide stability in the life of a child who must be removed from the home of a parent
- Place children in permanent family settings, in the absence of compelling reasons to the contrary

## KENTUCKY

*Current Through June 2020*

**Citation: Rev. Stat. § 620.023**

Evidence of the following circumstances, if relevant, shall be considered by the court in all proceedings in which the court is required to render decisions in the best interests of the child:

- Mental illness or an intellectual disability of the parent, as attested to by a qualified mental health professional, that renders the parent unable to care for the immediate and ongoing needs of the child
- Acts of abuse or neglect toward any child
- Substance use disorder that results in an incapacity by the parent or caregiver to provide essential care and protection for the child
- A finding of domestic violence and abuse, whether or not committed in the presence of the child
- Any other crime committed by a parent that results in the death or permanent physical or mental disability of a member of that parent's family or household
- The existence of any guardianship or conservatorship of the parent pursuant to a determination of disability or partial disability

In determining the best interests of the child, the court may consider the effectiveness of rehabilitative efforts made by the parent or caregiver intended to address circumstances in this section.

## LOUISIANA

*Current Through June 2020*

**Citation: Children's Code Art. 601**

The purpose of this title is to protect children whose physical or mental health and welfare is substantially at risk of harm by physical abuse, neglect, or exploitation and who may be further threatened by the conduct of others, by providing for the reporting of suspected cases of abuse, exploitation, or neglect of children; by providing for the investigation of such complaints; and by providing, if necessary, for the resolution of child in need of care proceedings in the courts. The proceedings shall be conducted expeditiously to avoid delays in achieving permanency for children. This title is intended to provide the greatest possible protection as promptly as possible for such children. The health, safety, and best interests of the child shall be the paramount

concern in all proceedings under this title. This title shall be administered and interpreted to avoid unnecessary interference with family privacy and trauma to the child, and yet, at the same time, authorize the protective and preventive intervention needed for the health, safety, and well-being of children.

**Citation: Children's Code Art. 675(A)**

The case plan shall be designed to achieve placement in the least restrictive, most family-like, and most appropriate setting available in close proximity to the parents' homes, consistent with the best interests and special needs of the child. The health and safety of the child shall be the paramount concern in the development of the case plan.

## **MAINE**

*Current Through June 2020*

**Citation: Ann. Stat. Tit. 22, § 4003**

Recognizing that the health and safety of children must be of paramount concern and that the right to family integrity is limited by the right of children to be protected from abuse and neglect, and recognizing also that uncertainty and instability are possible in extended foster home or institutional living, it is the intent of the legislature to do the following:

- Authorize the Maine Department of Health and Human Services to protect and assist abused and neglected children, children in circumstances that present a substantial risk of abuse and neglect, and their families
- Provide that children will be removed from the custody of their parents only where failure to do so would jeopardize their health or welfare
- Require that reasonable efforts be made to rehabilitate and reunify families as a means for protecting the welfare of children, but prevent needless delay for permanent plans for children when rehabilitation and reunification are not possible
- Place children who are removed from the custody of their parents with an adult relative, when possible
- Place children who are removed from the custody of their parents with as many of those children's siblings as possible
- Promote the early establishment of permanent plans for the care and custody of children who cannot be returned to their family

**Citation: Rev. Stat. Tit. 22, § 4055(2)-(3)**

In deciding to terminate parental rights, the court shall consider the best interests of the child; the needs of the child, including the child's age; the child's attachments to relevant persons; periods of attachment and separation; the child's ability to integrate into a substitute placement or back into the parent's home; and the child's physical and emotional needs.

The court shall consider the wishes of a child, in a manner appropriate to the age of the child, in making an order under this section.

## MARYLAND

*Current Through June 2020*

### **Citation: Family Law § 5-525(f)(1)**

In developing a permanency plan for a child in an out-of-home placement, the local department shall give primary consideration to the best interests of the child, including consideration of both in-State and out-of-State placements.

The local Department of Social Services shall consider the following factors in determining the permanency plan that is in the best interests of the child:

- The child's ability to be safe and healthy in the home of the child's parent
- The child's attachment and emotional ties to the child's natural parents and siblings
- The child's emotional attachment to the child's current caregiver and the caregiver's family
- The length of time the child has resided with the current caregiver
- The potential emotional, developmental, and educational harm to the child if moved from the child's current placement
- The potential harm to the child by remaining in State custody for an excessive period of time

## MASSACHUSETTS

*Current Through June 2020*

### **Citation: Gen. Laws Ch. 119, § 1**

The health and safety of the child shall be of paramount concern and shall include the long-term well-being of the child.

In all matters and decisions by the Department of Children and Families, the policy of the department, as applied to children in its care and protection or children who receive its services, shall be to define best interests of the child as that which shall include, but not be limited to, the following:

- Considerations of precipitating factors and previous conditions leading to any decisions made in proceedings related to the past, current, and future status of the child
- The current state of the factors and conditions together with an assessment of the likelihood of their amelioration or elimination
- The child's fitness, readiness, abilities, and developmental levels
- The particulars of the service plan designed to meet the needs of the child within his or her current placement whether with the child's family or in a substitute care placement, and whether such service plan is used by the department or presented to the courts with written documentation
- The effectiveness, suitability, and adequacy of the services provided and of placement decisions, including the progress of the child

In all department proceedings that affect the child's past, current, and future placements and status, when determining the best interests of the child, there shall be a presumption of competency that a child who has attained age 12 is able to offer statements on his or her own behalf and shall be provided with timely opportunities and access to offer such statements, which shall be considered by the department if the child is capable and willing. In all matters relative to the care and protection of a child, the ability, fitness, and capacity of the child shall be considered in all department proceedings.

## MICHIGAN

*Current Through June 2020*

### **Citation: Comp. Laws § 722.23**

As used in the act, 'best interests of the child' means the sum total of the following factors to be considered, evaluated, and determined by the court:

- The love, affection, and other emotional ties existing between the parties involved and the child
- The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any
- The capacity and disposition of the parties involved to provide the child with food, clothing, medical care, or other remedial care recognized and permitted under the laws of this State in place of medical care and other material needs
- The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity
- The permanence, as a family unit, of the existing or proposed custodial home or homes
- The moral fitness of the parties involved
- The mental and physical health of the parties involved
- The home, school, and community record of the child
- The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference
- The willingness of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and parents. A court may not consider negatively for the purposes of this factor any reasonable action taken by a parent to protect a child or that parent from sexual assault or domestic violence by the child's other parent.
- Domestic violence, regardless of whether the violence was directed against or witnessed by the child
- Any other factor considered by the court to be relevant to a particular child custody dispute

## MINNESOTA

*Current Through June 2020*

### **Citation: Ann. Stat. § 260C.193, Subd. 3(a)-(e)**

The policy of the State is to ensure that the best interests of children who are in foster care, who experience transfer of permanent legal and physical custody to a relative, or who are adopted are met by requiring individualized determinations, as required under § 260C.212, subd.2(b), of the needs of the child and of how the selected home will serve the needs of the child.

No later than 3 months after a child is ordered removed from the care of a parent, the court shall review and enter findings regarding whether the responsible social services agency made either of the following:

- Diligent efforts to identify and search for relatives, as required under § 260C.221
- An individualized determination, as required under § 260C.212, to select a home that meets the needs of the child

If the court finds the agency has not made the required efforts, and there is a relative who qualifies to be licensed to provide family foster care, the court may order the child placed with the relative consistent with the child's best interests.

If the agency's efforts are found to be sufficient, the court shall order the agency to continue to appropriately engage relatives who responded to the notice under § 260C.221 in placement and case planning decisions and to appropriately engage relatives who subsequently come to the agency's attention.

If the child's birth parent or parents explicitly request that a relative or important friend not be considered, the court shall honor that request if it is consistent with the best interests of the child. If the child's birth parent or parents express a preference for placing the child in a foster or adoptive home of the same or a similar religious background to that of the birth parent or parents, the court shall order placement of the child with an individual who meets the birth parent's religious preference.

**Citation: Ann. Stat. § 260C.193, Subd. 3(f)-(h)**

Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

Whenever possible, siblings should be placed together unless it is determined not to be in the best interests of siblings. If siblings are not placed together, the responsible social services agency shall report to the court the efforts made to place the siblings together and why the efforts were not successful. If the court is not satisfied that the agency has made reasonable efforts to place siblings together, the court must order the agency to make further reasonable efforts. If siblings are not placed together, the court shall order the responsible social services agency to implement the plan for visitation among siblings required as part of the out-of-home placement plan.

This subdivision does not affect the Indian Child Welfare Act (25 U.S.C. § 1901, et seq.) and the Minnesota Indian Family Preservation Act, §§ 260.751 to 260.835.

## **MISSISSIPPI**

*Current Through June 2020*

**Citation: Ann. Code § 43-21-103**

This chapter shall be liberally construed to the end that each child coming within the jurisdiction of the youth court shall become a responsible, accountable, and productive citizen, and that each such child shall receive such care, guidance, and control, preferably in such child's own home, as is conducive toward that end and is in the State's and the child's best interests. It is the public policy of this State that the parents of each child shall be primarily responsible for the care, support, education, and welfare of such children; however, when it is necessary that a child be removed from the control of such child's parents, the youth court shall secure proper care for such child.

## **MISSOURI**

*Current Through June 2020*

**Citation: Ann. Stat. § 210.001(1)**

The Department of Social Services shall address the needs of homeless, dependent, and neglected children in the supervision and custody of the Children's Division and to their families-in-conflict by doing the following:

- Serving children and families as a unit in the least restrictive setting available and in close proximity to the family home, consistent with the best interests and special needs of the child

- Ensuring that appropriate social services are provided to the family unit both prior to the removal of the child from the home and after family reunification
- Developing and implementing preventive and early intervention social services that have demonstrated the ability to delay or reduce the need for out-of-home placements and ameliorate problems before they become chronic

**Citation: Ann. Stat. § 211.443**

The provisions of this section shall be construed to promote the best interests and welfare of the child, as determined by the juvenile court, in consideration of the following:

- The recognition and protection of the constitutional rights of all parties in the proceedings
- The recognition and protection of the birth family relationship, when possible and appropriate
- The entitlement of every child to a permanent and stable home

## **MONTANA**

*Current Through June 2020*

**Citation: Ann. Code § 41-3-101**

It is the policy of the State of Montana to do the following:

- Provide for the protection of children whose health and welfare are or may be adversely affected and further threatened by the conduct of those responsible for their care and protection
- Achieve these purposes in a family environment and preserve the unity and welfare of the family, whenever possible
- Ensure that there is no forced removal of a child from the family based solely on an allegation of abuse or neglect unless the department has reasonable cause to suspect that the child is at imminent risk of harm
- Recognize that a child is entitled to assert the child's constitutional rights
- Ensure that all children have a right to a healthy and safe childhood in a permanent placement
- Ensure that whenever removal of a child from the home is necessary, the child is entitled to maintain ethnic, cultural, and religious heritage, whenever appropriate

It is intended that the mandatory reporting of abuse or endangerment cases by professional people and other community members to the appropriate authority will cause the protective services of the State to seek to prevent further abuses, protect and enhance the welfare of these children, and preserve family life, whenever appropriate.

Whenever it is necessary to remove a child from the child's home, the department shall, when it is in the best interests of the child, place the child with the child's noncustodial birth parent or with the child's extended family, including adult siblings, grandparents, great-grandparents, aunts, and uncles, when placement with the extended family is approved by the department, prior to placing the child in an alternative protective or residential facility. Prior to approving a placement, the department shall investigate whether anyone living in the home has been convicted of a crime involving serious harm to children.

In implementing this policy, the child's health and safety are of paramount concern.

## NEBRASKA

*Current Through June 2020*

**Citation: Rev. Stat. § 43-533**

The following principles shall guide the actions of State government when involved with families and children in need of assistance or services:

- Prevention, early identification of problems, and early intervention shall be guiding philosophies when the State plans or implements services for families or children, when such services are in the best interests of the child.
- When families or children request assistance, State and local government resources shall be utilized to complement community efforts to help meet the needs of such families. The State shall encourage community involvement in the provision of services to families and children in order to encourage and provide innovative strategies in the development of services for families and children.
- The State shall develop methods to coordinate services and resources for families and children. Every child-serving agency shall recognize that the jurisdiction of such agency serving children with multiple needs is not mutually exclusive.
- When children are removed from their home, permanency planning shall be the guiding philosophy. It shall be the policy of the State:
  - To make reasonable efforts to reunite the child with his or her family in a timeframe appropriate to the age and developmental needs of the child as long as the best interests of the child—the health and safety of the child being of paramount concern—and the needs of the child have been given primary consideration in making a determination whether reunification is possible
  - When a child cannot remain with parents, to give preference to relatives as a placement resource
  - To minimize the number of placement changes for children in out-of-home care as long as the needs, health, safety, and best interests of the child in care are considered
- When families cannot be reunited and when active parental involvement is absent, adoption shall be aggressively pursued. Absent the possibility of adoption, other permanent settings shall be pursued. In either situation, the health, safety, and best interests of the child shall be the overriding concerns. Preference shall be given to relatives for the permanent placement of the child.

## NEVADA

*Current Through June 2020*

**Citation: Rev. Stat. § 128.005(2)(c)**

The legislature declares that the preservation and strengthening of family life is a part of the public policy of this State.

The legislature finds the following:

- Severance of the parent and child relationship is a matter of such importance in order to safeguard the rights of parent and child as to require judicial determination.
- Judicial selection of the person or agency to be entrusted with the custody and control of a child after such severance promotes the welfare of the parties and of this State.
- The continuing needs of a child for proper physical, mental, and emotional growth and development are the decisive considerations in proceedings for termination of parental rights.

## NEW HAMPSHIRE

*Current Through June 2020*

### **Citation: Rev. Stat. § 169-C:2(I)-(II)**

It is the purpose of this chapter, through the mandatory reporting of suspected instances of child abuse or neglect, to provide protection to children whose life, health, or welfare are endangered.

It is a further purpose of this chapter to establish a judicial framework to protect the rights of all parties involved in the adjudication of child abuse or neglect cases. Each child coming within the provisions of this chapter shall receive, preferably in the child's own home, the care, emotional security, guidance, and control that will promote the child's best interests. If the child should be removed from the control of his or her parents, guardian, or custodian, adequate care shall be secured for the child. This chapter seeks to coordinate efforts by State and local authorities, in cooperation with private agencies and organizations, citizens' groups, and concerned individuals, to do the following:

- Protect the safety of the child
- Take such action as may be necessary to prevent the abuse or neglect of children
- Preserve the unity of the family
- Provide protection, treatment, and rehabilitation, as needed, to children placed in alternative care
- Provide assistance to parents to deal with and correct problems in order to avoid removal of children from the family

### **Citation: Rev. Stat. § 169-C:2(III)**

This chapter shall be liberally construed to the end that its purpose may be carried out, as follows:

- To encourage the mental, emotional, and physical development of each child coming within the provisions of this chapter, by providing him or her with the protection, care, treatment, counseling, supervision, and rehabilitative resources that the child needs and has a right to receive
- To achieve the foregoing purposes and policies, whenever possible, by keeping a child in contact with his or her home community and in a family environment by preserving the unity of the family and separating the child from his or her parents only when the safety of the child is in danger or when it is clearly necessary for the child's welfare or the interests of public safety, and when it can be clearly shown that a change in custody and control will plainly be better for the child
- To provide effective judicial procedures through which the provisions of this chapter are executed and enforced and that recognize and enforce the constitutional and other rights of the parties and ensures them a fair hearing

## NEW JERSEY

*Current Through June 2020*

### **Citation: Ann. Stat. § 30:4C-1(a), (b), (f)**

This act is to be administered strictly in accordance with the general principles laid down in this section, which are declared to be the public policy of this State, whereby the safety of children shall be of paramount concern and the best interests of children shall be a primary consideration, as follows:

- That the preservation and strengthening of family life is a matter of public concern as being in the interests of the general welfare, but the health and safety of the child shall be the State's paramount concern when making a decision on whether or not it is in the child's best interests to preserve the family unit

- That the prevention and correction of dependency and delinquency among children should be accomplished so far as practicable through welfare services that will seek to continue the living of such children in their own homes
- That each child placed outside his or her home by the State has the need for permanency as follows:
  - Through return to the child's own home, if the child can be returned home without endangering the child's health or safety
  - Through adoption, if family reunification is not possible
  - Through an alternative permanent placement, if termination of parental rights is not appropriate

**Citation: Ann. Stat. § 30:4C-1.1(a), (c)-(g)**

In accordance with the provisions of § 30:4C-11.1(b)-(d), when determining the reasonable efforts to be made and when making the reasonable efforts, the child's health and safety shall be of paramount concern.

The legislature finds and declares the following:

- Because the safety of children must always be paramount, allegations of child abuse and neglect must be investigated quickly and thoroughly and protective actions must be taken immediately, if necessary.
- Concerns about the safety, permanency, and well-being of children require significant changes in the organization of the child welfare system, the ability to implement best practices within the system, the development of effective services to meet the needs of children and families, and the elimination of impediments to the quick and efficient management of abuse and neglect cases.
- Children need safe, stable, and positive relationships with caring adults in order to thrive, and, if their parents are incapable of providing such a caring relationship, the State must look to other families to provide this kind of relationship.
- To ensure the best outcomes for children and their families, these substitute families must be viewed and treated as 'resource families' and provided with appropriate support, training, and responsibilities, which will include expedited licensure for this purpose, equalized payment rates for care among the various types of resource families, and enhanced access to necessary support services tailored to their respective needs.
- Youth must be provided with supports and services in their communities that will enable them to grow into healthy and productive adults, and those youth who previously received child welfare services must continue to receive those services beyond age 18, up to age 21, as appropriate.

## NEW MEXICO

*Current Through June 2020*

**Citation: Ann. Stat. § 32A-1-3**

The Children's Code shall be interpreted and construed to effectuate the following legislative purposes:

- First, to provide for the care, protection, and wholesome mental and physical development of children coming within the provisions of this code, and then to preserve the unity of the family, whenever possible
- To provide judicial and other procedures through which the provisions of the Children's Code are executed and enforced and in which the parties are assured a fair hearing, and their constitutional and other legal rights are recognized and enforced
- To provide a continuum of services for children and their families from prevention to treatment, considering, whenever possible, prevention, diversion, and early intervention, particularly in the schools
- To provide children with services that are sensitive to their cultural needs
- To provide for the cooperation and coordination of the civil and criminal systems for investigation, intervention, and disposition of cases, to minimize interagency conflicts and to enhance the coordinated response of all agencies to achieve the best interests of the child victim

- To provide continuity for children and families appearing before the family court by assuring that, whenever possible, a single judge hears all successive cases or proceedings involving a child or family

The child's health and safety shall be the paramount concerns. Permanent separation of the child from the child's family, however, would especially be considered when the child or another child of the parent has suffered permanent or severe injury or repeated abuse. It is the intent of the legislature that, to the maximum extent possible, children in New Mexico shall be reared as members of a family unit.

**Citation: Ann. Stat. § 32A-4-28(A)**

In proceedings to terminate parental rights, the court shall give primary consideration to the physical, mental, and emotional welfare and needs of the child, including the likelihood of the child being adopted if parental rights are terminated.

## **NEW YORK**

*Current Through June 2020*

**Citation: Soc. Serv. Law § 358-a(3)(c)**

For the purpose of this section, in determining reasonable efforts to be made with respect to a child, and in making such reasonable efforts, the child's health and safety shall be the paramount concerns.

**Citation: Soc. Serv. Law § 384-b(1)**

The legislature recognizes that the health and safety of children are of paramount importance. To the extent it is consistent with the health and safety of the child, the legislature further finds the following:

- It is desirable for children to grow up with a normal family life in a permanent home and that such circumstance offers the best opportunity for children to develop and thrive.
- It is generally desirable for the child to remain with or be returned to the birth parent because the child's need for a normal family life will usually best be met in the home of his or her birth parent, and that parents are entitled to bring up their own children unless the best interests of the child would be thereby endangered.
- The State's first obligation is to help the family with services to prevent its breakup or to reunite it if the child has already left home.
- When it is clear that the birth parent cannot or will not provide a normal family home for the child, and when continued foster care is not an appropriate plan for the child, then a permanent alternative home should be sought for the child.

The legislature further finds that many children who have been placed in foster care experience unnecessarily protracted stays in such care without being adopted or returned to their parents or other custodians. Such unnecessary stays may deprive these children of positive, nurturing family relationships and have deleterious effects on their development into responsible, productive citizens. Provision of a timely procedure for the termination of the rights of the birth parents, in appropriate cases, could reduce such unnecessary stays.

It is the intent of the legislature to provide procedures not only assuring that the rights of the birth parent are protected, but also, where positive, nurturing parent-child relationships no longer exist, furthering the best interests, needs, and rights of the child by terminating parental rights and freeing the child for adoption.

## **NORTH CAROLINA**

*Current Through June 2020*

### **Citation: Gen. Stat. § 7B-100**

This subchapter shall be interpreted and construed to implement the following purposes and policies:

- To provide procedures for the hearing of juvenile cases that assure fairness and equity and that protect the constitutional rights of juveniles and parents
- To develop a disposition in each juvenile case that reflects consideration of the facts, the needs and limitations of the juvenile, and the strengths and weaknesses of the family
- To provide services for the protection of juveniles by means that respect both the right to family autonomy and the juveniles' needs for safety, continuity, and permanence
- To provide standards for the removal, when necessary, of juveniles from their homes and for the return of juveniles to their homes consistent with preventing the unnecessary or inappropriate separation of juveniles from their parents
- To provide standards, consistent with the Adoption and Safe Families Act of 1997, P.L. 105-89, for ensuring that the best interests of the juvenile are of paramount consideration by the court and that when it is not in the juvenile's best interests to be returned home, the juvenile will be placed in a safe, permanent home within a reasonable amount of time

### **Citation: Gen. Stat. § 7B-507**

An order placing or continuing the placement of a juvenile in the nonsecure custody of a county Department of Social Services shall contain the following:

- A finding that the juvenile's continuation in or return to the juvenile's own home would be contrary to the juvenile's health and safety
- Specific findings as to whether a county department has made reasonable efforts to prevent the need for placement of the juvenile

In determining whether efforts to prevent the placement of the juvenile were reasonable, the juvenile's health and safety shall be the paramount concern.

## **NORTH DAKOTA**

*Current Through June 2020*

### **Citation: Cent. Code § 14-09-06.2(1)**

The best interests and welfare of the child are determined by the court's consideration and evaluation of all factors affecting the best interests and welfare of the child. These factors include all the following, when applicable:

- The love, affection, and other emotional ties existing between the parents and child and the ability of each parent to provide the child with nurturing, love, affection, and guidance
- The ability of each parent to assure that the child receives adequate food, clothing, shelter, medical care, and a safe environment
- The child's developmental needs and the ability of each parent to meet those needs, both in the present and in the future
- The sufficiency and stability of each parent's home environment, the impact of extended family, the length of time the child has lived in each parent's home, and the desirability of maintaining continuity in the child's home and community

- The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child
- The moral fitness of the parents, as that fitness impacts the child
- The mental and physical health of the parents, as that health impacts the child
- The home, school, and community records of the child and the potential effect of any change
- Evidence of domestic violence
- The interaction and interrelationship, or the potential for interaction and interrelationship, of the child with any person who resides in, is present, or frequents the household of a parent and who may significantly affect the child's best interests
- The making of false allegations not made in good faith, by one parent against the other, of harm to a child
- Any other factors considered by the court to be relevant to a particular parental rights and responsibilities dispute

**Citation: Cent. Code § 14-09-06.2(1)(i)-(j)**

If the court finds by clear and convincing evidence that a child is of sufficient maturity to make a sound judgment, the court may give substantial weight to the preference of the mature child. The court also shall give due consideration to other factors that may have affected the child's preference, including whether the child's preference was based on undesirable or improper influences.

In determining parental rights and responsibilities, the court shall consider evidence of domestic violence. If the court finds credible evidence that domestic violence has occurred, and there exists one incident of domestic violence that resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, this combination creates a rebuttable presumption that a parent who has perpetrated domestic violence may not be awarded residential responsibility for the child. This presumption may be overcome only by clear and convincing evidence that the best interests of the child require that the parent have residential responsibility.

## **NORTHERN MARIANA ISLANDS**

*Current Through June 2020*

**Citation: Commonwealth Code Tit. 6, § 5311**

This chapter seeks to do the following:

- Ensure that each abused child and the child's family receive such care, preferably in their own home, as will serve the emotional, mental, and physical welfare of the minor and the best interests of the Commonwealth
- Require reporting of child abuse incidents so such children and their families may be identified and given any treatment and assistance deemed to be in the best interests of the child and the Commonwealth

## **OHIO**

*Current Through June 2020*

**Citation: Ann. Code § 2151.414(D)(1)**

In determining the best interests of a child at a hearing, the court shall consider all relevant factors, including, but not limited to, the following:

- The interaction and interrelationship of the child with the child's parents, siblings, relatives, foster caregivers, and out-of-home providers, and any other person who may significantly affect the child

- The wishes of the child, as expressed directly by the child or through the child's guardian ad litem, with due regard for the maturity of the child
- The custodial history of the child, including whether the child has been in the temporary custody of one or more public children's services agencies or private child-placing agencies for 12 or more months of a consecutive 22-month period ending on or after March 18, 1999
- The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency
- Whether any of the factors in § 2151.414(E)(7)-(11) apply in relation to the parents and child

**Citation: Ann. Code § 2151.414(E)(7)-(11)**

In making a best interests determination, the court shall consider whether any of the following factors apply:

- The parent has been convicted of or pleaded guilty to one of the following:
  - Murder or voluntary manslaughter and the victim was a sibling of the child or another child who lived in the parent's household at the time of the offense
  - Assault and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense
  - Torture or cruel abuse of a child, and the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense is the victim
  - A sexual assault, as described in § 2907.02, et seq., and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense
  - Human trafficking or compelling or promoting prostitution, and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense
  - A conspiracy or attempt to commit an offense described in this section
- The parent has repeatedly withheld medical treatment or food from the child when the parent has the means to provide the treatment or food.
- The parent has placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refused to participate in further treatment two or more times after agreeing to a case plan.
- The parent has abandoned the child.
- The parent has had parental rights involuntarily terminated with respect to a sibling of the child, and the parent has failed to provide clear and convincing evidence to prove that, notwithstanding the prior termination, the parent can provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child.

## OKLAHOMA

*Current Through June 2020*

**Citation: Ann. Stat. Tit. 10A, § 1-1-102(A)**

For the purposes of the Oklahoma Children's Code, the legislature recognizes the following:

- Parents have a natural, legal, and moral right, as well as a duty, to care for and support their children, and such rights are protected by State and Federal laws as well as the Constitution. To that end, it is presumed that the best interests of a child are ordinarily served by leaving the child in the custody of the parents, who are expected to have the strongest bond of love and affection and to be best able to provide a child those needed qualities that make a child's life safe and secure. Nevertheless, this presumption may be rebutted where there is evidence of abuse and neglect or threat of harm.
- A child has a right to be raised by the mother and father of the child as well as a right to be raised free from physical and emotional abuse or neglect. When it is necessary to remove a child from a parent, the child is entitled to a permanent home and to be placed in the least restrictive environment to meet the needs of the child.

- Because the State has an interest in its present and future citizens as well as a duty to protect those who, because of age, are unable to protect themselves, it is the policy of this State to provide for the protection of children who have been abused or neglected and who may be further threatened by the conduct of persons responsible for the health, safety, and welfare of such children. To this end, where family circumstances threaten the safety of a child, the State's interest in the welfare of the child takes precedence over the natural right and authority of the parent to the extent that it is necessary to protect the child and assure that the best interests of the child are met.

**Citation: Ann. Stat. Tit. 10A, § 1-1-102(B)**

It is the intent of the legislature that the Oklahoma Children's Code provides the foundation and process for State intervention into the parent-child relationship whenever the circumstances of a family threaten the safety of a child and to properly balance the interests of the parties stated herein. To this end, it is the purpose of the laws relating to children alleged or found to be deprived will do the following:

- Intervene in the family only when necessary to protect a child from harm or threatened harm
- Provide expeditious and timely judicial and agency procedures for the protection of the child
- Preserve, unify, and strengthen the family ties of the child whenever possible when in the best interests of the child to do so
- Recognize that the right to family integrity, preservation, or reunification is limited by the right of the child to be protected from abuse and neglect
- Make reasonable efforts to prevent or eliminate the need for the removal of a child from the home and make reasonable efforts to return the child to the home, unless otherwise prescribed by the Oklahoma Children's Code
- Recognize that permanency is in the best interests of the child
- Ensure that when family rehabilitation and reunification are not possible, the child will be placed in an adoptive home or other permanent living arrangement in a timely fashion
- Secure for each child the permanency, care, education, and guidance as will best serve the spiritual, emotional, mental, and physical health, safety, and welfare of the child

**Citation: Ann. Stat. Tit. 10A, § 1-1-102(C)-(E)**

Whenever it is necessary for a child to be placed outside the home pursuant to the Oklahoma Children's Code, it is the intent of the legislature that the following occur:

- Each child shall be assured the care, guidance, and supervision in a permanent home or foster home that will serve the best interests of the child, including, but not limited to, the development of the moral, emotional, spiritual, mental, social, educational, and physical well-being of the child.
- When a child is placed in foster care, the foster parent shall be allowed to consider the child as part of the family.
- Whenever possible, siblings shall be placed together, and when it is not possible, efforts shall be made to preserve the relationships through visitation and other methods of communication.
- Permanent placement is achieved as soon as possible.

A foster parent or group home where a child is placed has a recognizable interest in the familial relationship that the foster parent or group home establishes with a foster child and shall therefore be considered an essential participant with regard to decisions related to the care, supervision, guidance, rearing, and other foster care services to the child.

It is the intent of the legislature that the paramount consideration in all proceedings within the Oklahoma Children's Code is the best interests of the child.

## OREGON

*Current Through June 2020*

**Citation: Rev. Stat. § 107.137(1)**

In determining the custody of a minor child, the court shall give primary consideration to the best interests and welfare of the child. In determining the best interests and welfare of the child, the court shall consider the following relevant factors:

- The emotional ties between the child and other family members
- The interest of the parties in and attitude toward the child
- The desirability of continuing an existing relationship
- The abuse of one parent by the other
- The preference of the primary caregiver of the child, if the caregiver is deemed fit by the court
- The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child

The court may not consider such willingness and ability if one parent shows that the other parent has sexually assaulted or engaged in a pattern of behavior of abuse against the parent or a child and that a continuing relationship with the other parent will endanger the health or safety of either parent or the child.

## PENNSYLVANIA

*Current Through June 2020*

**Citation: Cons. Stat. Tit. 42, § 6301(b)(1), (1.1), (3), (4)**

This chapter shall be interpreted and construed as to effectuate the following purposes:

- To preserve the unity of the family whenever possible or to provide another alternative permanent family when the unity of the family cannot be maintained
- To provide for the care, protection, safety, and wholesome mental and physical development of children coming within the provisions of this chapter
- To achieve the foregoing purposes in a family environment whenever possible, separating the child from parents only when necessary for his or her welfare, safety, or health, or in the interests of public safety
- To provide means through which the provisions of this chapter are executed and enforced and in which the parties are assured a fair hearing, and their constitutional and other legal rights recognized and enforced

## PUERTO RICO

*Current Through June 2020*

**Citation: Ann. Laws Tit. 1, § 421**

The public policy of the Government of Puerto Rico seeks to uphold and guarantee the rights of children and the respect of their dignity. By so providing, we hereby take into account the variable degree of vulnerability to which children are subject during their process of development and socialization, until they attain full legal standing, and the State's responsibility to provide the means and resources needed to safeguard their interests and advance their welfare.

All measures concerning children as well as all interventions of the State involving the powers and authority germane to patria potestas or guardianship shall have as their guiding principle the protection of the family as an institution and the best interests and welfare of children, taking into consideration the degree of development of their capabilities, and free from any discrimination motivated by origin, race, color, birth, political or religious beliefs, disabilities, sex, socioeconomic or cultural status of the children, or for any other personal consideration. The State recognizes that the parents or guardians are primarily responsible for the control, supervision, and guidance of their children.

## **RHODE ISLAND**

*Current Through June 2020*

### **Citation: Gen. Laws § 42-72-2(1)-(2)**

The State finds and declares the following:

- Parents have the primary responsibility for meeting the needs of their children, and the State has an obligation to help them discharge this responsibility or to assume this responsibility when parents are unable to do so.
- The State has a basic obligation to promote, safeguard, and protect the social well-being and development of the children of the State through a comprehensive program providing for the following:
  - Social services and facilities for children who require guidance, care, control, protection, treatment, or rehabilitation
  - A permanent home and safe environment for children, services to children and their families to prevent the unnecessary removal of children from their homes, and foster care and services to children with special needs who must be removed from their families to meet their particular needs
  - The strengthening of the family unit and making the home safe for children by enhancing the parental capacity for good child care

### **Citation: Gen. Laws § 15-7-7(c)**

In considering the termination of rights, the court shall give primary consideration to the physical, psychological, mental, and intellectual needs of the child insofar as that consideration is not inconsistent with other provisions of this chapter.

The consideration shall include the following: If a child has been placed in foster family care, voluntarily or involuntarily, the court shall determine whether the child has been integrated into the foster family to the extent that the child's familial identity is with the foster family and whether the foster family is able and willing to permanently integrate the child into the foster family; provided that, in considering integrating the child into a foster family, the court should consider the following:

- The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining that environment and continuity for the child
- The reasonable preference of the child, if the court determines that the child has sufficient capacity to express a reasonable preference

## **SOUTH CAROLINA**

*Current Through June 2020*

### **Citation: Ann. Code § 63-1-20(D)**

For children in need of services, care, and guidance, the State shall secure those services as are needed to serve the emotional, mental, and physical welfare of children and the best interests of the community, preferably in their homes or the least restrictive environment possible. When children must be placed in care away from their homes, the State shall insure that they are protected against any harmful effects resulting from the temporary or permanent inability of parents to provide care and protection for their children. It is the policy of the State to reunite the child with his or her family in a timely manner, whether or not the child has been placed in the care of the State voluntarily. When children must be permanently removed from their homes, they shall be placed in adoptive homes so that they may become members of a family by legal adoption or, absent that possibility, other permanent settings.

### **Citation: Ann. Code § 63-1-30**

This article shall be liberally construed to the end that families whose unity or well-being is threatened shall be assisted, protected, and restored, if possible, as secure units of law-abiding members, and that each child coming within the jurisdiction of the court shall receive, preferably in his or her own home, the care, guidance, and control that is conducive to his or her welfare and best interests of the State, and that when he or she is removed from the control of his or her parents, the court shall secure for him or her care as nearly as possible equivalent to that which they should have given him or her.

## **SOUTH DAKOTA**

*Current Through June 2020*

### **Citation: Codified Laws § 26-7A-56**

Except as otherwise provided in this chapter and related chapters 26-8A, 26-8B, and 26-8C, the rules of civil procedure and the rules of evidence apply to adjudicatory hearings. All other hearings shall be conducted under rules prescribed by the court. The rules may be designed by the court to inform the court fully of the exact status of the child and to ascertain the history, environment, and the past and present physical, mental, and moral condition of the child and the child's parents, guardian, and custodian, as may be necessary or appropriate to enable the court to determine suitable disposition of the child according to the least restrictive alternative available in keeping with the child's best interests and with due regard to the rights and interests of the parents, guardian, custodian, the public, and the State.

## **TENNESSEE**

*Current Through June 2020*

### **Citation: Ann. Code § 36-1-101(d)**

In all cases, when the best interests of the child and those of the adults are in conflict, such conflict shall always be resolved to favor the rights and the best interests of the child, which interests are hereby recognized as constitutionally protected, and, to that end, this part shall be liberally construed.

**Citation: Ann. Code § 36-1-113(i)**

In determining whether termination of parental or guardianship rights is in the best interests of the child pursuant to this part, the court shall consider, but is not limited to, the following:

- Whether the parent or guardian has made such adjustment of circumstance, conduct, or conditions as to make it safe and in the child's best interests to be in the home of the parent or guardian
- Whether the parent or guardian has failed to effect a lasting adjustment after reasonable efforts by available social services agencies for such duration of time that lasting adjustment does not reasonably appear possible
- Whether the parent or guardian has maintained regular visitation or other contact with the child
- Whether a meaningful relationship has otherwise been established between the parent or guardian and the child
- The effect a change of caregivers and physical environment is likely to have on the child's emotional, psychological, and medical condition
- Whether the parent or guardian, or other person residing with the parent or guardian, has shown brutality; physical, sexual, emotional, or psychological abuse; or neglect toward the child or another child or adult in the family or household
- Whether the physical environment of the parent's or guardian's home is healthy and safe, whether there is criminal activity in the home, or whether there is such use of alcohol, controlled substances, or controlled substance analogues as may render the parent or guardian consistently unable to care for the child in a safe and stable manner
- Whether the parent's or guardian's mental and/or emotional status would be detrimental to the child or prevent the parent or guardian from effectively providing safe and stable care and supervision for the child
- Whether the parent or guardian has paid child support consistent with the child support guidelines

**TEXAS**

*Current Through June 2020*

**Citation: Family Code § 263.307(b)**

The following factors should be considered in determining whether the child's parents are willing and able to provide the child with a safe environment:

- The child's age and physical and mental vulnerabilities
- The frequency and nature of out-of-home placements
- The magnitude, frequency, and circumstances of the harm to the child
- Whether the child has been the victim of repeated harm
- Whether the child is fearful of living in or returning to the child's home
- The results of psychiatric, psychological, or developmental evaluations of the child, the child's parents, or other family members
- Whether there is a history of abusive or assaultive conduct by the child's family or others who have access to the child's home
- Whether there is a history of substance abuse by the child's family or others who have access to the child's home
- Whether the perpetrator of the harm to the child is identified
- The willingness and ability of the child's family to seek out, accept, and complete counseling services and to cooperate with and facilitate an appropriate agency's close supervision
- The willingness and ability of the child's family to effect positive environmental and personal changes within a reasonable period of time

- Whether the child's family demonstrates adequate parenting skills, including providing the child and other children under the family's care with the following:
  - Minimally adequate health and nutritional care
  - Care, nurturance, and appropriate discipline consistent with the child's physical and psychological development
  - Guidance and supervision consistent with the child's safety
  - A safe home environment
  - Protection from repeated exposure to violence even though the violence may not be directed at the child
  - An understanding of the child's needs and capabilities
- Whether an adequate social support system consisting of an extended family and friends is available to the child

**Citation: Family Code § 263.307(a), (c)**

In considering the factors established by this section, the prompt and permanent placement of the child in a safe environment is presumed to be in the child's best interests.

In the case of a child age 16 or older, the following guidelines should be considered by the court in determining whether to adopt the permanency plan submitted by the department:

- Whether the permanency plan submitted to the court includes the services planned for the child to make the transition from foster care to independent living
- Whether this transition is in the best interests of the child

## UTAH

*Current Through June 2020*

**Citation: Ann. Code § 62A-4a-201(1)(c), (2)-(3)**

It is in the best interests and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this State.

It is also the public policy of this State that children have the right to protection from abuse and neglect, and that the State retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect. Therefore, the State, as *parens patriae*, has an interest in and responsibility to protect children whose parents abuse them or do not adequately provide for their welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the State may take action for the welfare and protection of the parent's children.

When the Division of Child and Family Services intervenes on behalf of an abused, neglected, or dependent child, it shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout its involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the State.

## VERMONT

*Current Through June 2020*

**Citation: Ann. Stat. Tit. 15A, § 3-504(c)**

At the time of the hearing under this section, the court shall consider the best interests of the child in accordance with the following criteria:

- The likelihood that the respondent will be able to assume or resume his or her parental duties within a reasonable period of time
- The child's adjustment to his or her home, school, and community
- The interaction and interrelationship of the child with his or her parents, siblings, and any other person who may significantly affect the best interests of the child
- Whether the parent or alleged parent has played and continues to play a constructive role, including personal contact and demonstrated love and affection, in the child's welfare

**Citation: Ann. Stat. Tit. 33, § 5114**

At the time of a permanency review, a modification hearing, or at any time a petition or request to terminate all residual parental rights of a parent without limitation as to adoption is filed by the commissioner or the attorney for the child, the court shall consider the best interests of the child in accordance with the following:

- The interaction and interrelationship of the child with his or her parents; siblings; foster parents, if any; and any other person who may significantly affect the child's best interests
- The child's adjustment to his or her home, school, and community
- The likelihood that the parent will be able to resume or assume parental duties within a reasonable period of time
- Whether the parent has played and continues to play a constructive role, including personal contact and demonstrated emotional support and affection, in the child's welfare

Except in cases where a petition or request to terminate all residual parental rights of a parent without limitation as to adoption is filed by the commissioner or the attorney for the child, the court shall also consider whether the parent is capable of playing a constructive role, including demonstrating emotional support and affection, in the child's welfare.

## VIRGIN ISLANDS

*Current Through June 2020*

**Citation: Ann. Code Tit. 5, § 2501(e)**

When children or their families request help, Federal and territorial government resources shall be utilized to complement community efforts to help meet the needs of children by aiding in the prevention and resolution of their problems. The territory shall direct its efforts first to strengthen and encourage family life as the most appropriate environment for the care and nurturing of children. To this end, the territory shall assist and encourage families to utilize all available resources. For children in need of services, care, and guidance, the territory shall attempt to secure those services needed to serve the emotional, mental, and physical welfare of children and the best interests of the community, preferably in their homes or in the least restrictive environment possible.

When children must be placed in care away from their homes, the territory shall attempt to ensure that they are protected against harmful effects resulting from the temporary or permanent inability of parents to provide care and protection of their children. It is the policy of this territory to reunite children with their families in a timely manner, whether or not the child has been voluntarily placed in the care of a department. When children must be permanently removed from their homes, they shall, if practicable, be placed in adoptive homes so that they may become members of a family by legal adoption or, absent that possibility, they shall be placed in other permanent settings.

## **VIRGINIA**

*Current Through June 2020*

### **Citation: Ann. Code § 20-124.3**

In determining the best interests of a child for purposes of determining custody or visitation arrangements, including any pendente lite orders pursuant to law, the court shall consider the following:

- The age and physical and mental condition of the child, giving due consideration to the child's changing developmental needs
- The age and physical and mental condition of each parent
- The relationship existing between each parent and each child, giving due consideration to the positive involvement with the child's life, the ability to accurately assess and meet the emotional, intellectual, and physical needs of the child
- The needs of the child, giving due consideration to other important relationships of the child, including, but not limited to, siblings, peers, and extended family members
- The role that each parent has played and will play in the future, in the upbringing and care of the child
- The propensity of each parent to actively support the child's contact and relationship with the other parent, including whether a parent has unreasonably denied the other parent access to or visitation with the child
- The relative willingness and demonstrated ability of each parent to maintain a close and continuing relationship with the child, and the ability of each parent to cooperate in and resolve disputes regarding matters affecting the child
- The reasonable preference of the child, if the court deems the child to be of reasonable intelligence, understanding, age, and experience to express such a preference
- Any history of (i) family abuse, as that term is defined in § 16.1-228; (ii) sexual abuse; (iii) child abuse; or (iv) an act of violence, force, or threat, as defined in § 19.2-152.7:1, that occurred no earlier than 10 years prior to the date a petition is filed
- Such other factors as the court deems necessary and proper to the determination

## **WASHINGTON**

*Current Through June 2020*

### **Citation: Rev. Code § 13.34.020**

The legislature declares that the family unit is a fundamental resource of American life that should be nurtured. Toward the continuance of this principle, the legislature declares that the family unit should remain intact unless a child's right to conditions of basic nurture, health, or safety is jeopardized. When the rights of basic nurture, physical and mental health, and safety of the child and the legal rights of the parents are in conflict, the rights and safety of the child should prevail. In making reasonable efforts under this chapter, the child's health and safety shall be the paramount concern. The right of a child to basic nurturing includes the right to a safe, stable, and permanent home and a speedy resolution of any proceeding under this chapter.

## WEST VIRGINIA

*Current Through June 2020*

### **Citation: Ann. Code § 49-1-105**

It is the purpose of this chapter to provide a system of coordinated child welfare and juvenile justice services for the children of this State. The State has a duty to ensure that proper and appropriate care is given and maintained.

The child welfare and juvenile justice system shall do the following:

- Ensure each child care, safety, and guidance
- Serve the mental and physical welfare of the child
- Preserve and strengthen the child's family ties
- Recognize the fundamental rights of children and parents
- Develop and establish procedures and programs that are family-focused rather than focused on specific family members, except where the best interests of the child or the safety of the community are at risk
- Involve the child and the child's family or the child's caregiver in the planning and delivery of programs and services
- Provide community-based services in the least restrictive settings that are consistent with the needs and potentials of the child and his or her family
- Provide for early identification of the problems of children and their families, and respond appropriately to prevent abuse and neglect or delinquency
- Provide for the rehabilitation of status offenders and juvenile delinquents
- As necessary, provide for the secure detention of juveniles alleged or adjudicated delinquent
- Provide for secure incarceration of children or juveniles adjudicated delinquent and committed to the custody of the director of the Division of Juvenile Services
- Protect the welfare of the general public

## WISCONSIN

*Current Through June 2020*

### **Citation: Ann. Stat. § 48.426(2)-(3)**

The best interests of the child shall be the prevailing factor considered by the court in determining the disposition of all proceedings under this subchapter. In considering the best interests of the child under this section, the court shall consider, but not be limited to, the following:

- The likelihood of the child's adoption after termination of the parent's parental rights
- The age and health of the child, both at the time of the disposition, and, if applicable, at the time the child was removed from the home
- Whether the child has substantial relationships with the parent or other family members and whether it would be harmful to the child to sever these relationships
- The wishes of the child
- The duration of the separation of the parent from the child
- Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination of the parent's parental rights, taking into account the conditions of the child's current placement, the likelihood of future placements, and the results of prior placements

## WYOMING

Current Through June 2020

### Citation: Ann. Stat. § 14-3-201

The purpose of §§ 14-3-201 through 14-3-216 is to delineate the responsibilities of the State agency; other governmental agencies; or officials, professionals, and citizens to intervene on behalf of a child suspected of being abused or neglected, to protect the best interests of the child, to further offer protective services when necessary in order to prevent any harm to the child or any other children living in the home, to protect children from abuse or neglect that jeopardize their health or welfare, to stabilize the home environment, to preserve family life whenever possible, and to provide permanency for the child in appropriate circumstances. The child's health, safety, and welfare shall be of paramount concern in implementing and enforcing this article.



U.S. Department of Health and Human Services  
Administration for Children and Families  
Administration on Children, Youth and Families  
Children's Bureau



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