



General Assembly

January Session, 2013

Raised Bill No. 6685

LCO No. 4896



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING THE PRESUMPTION OF SHARED CUSTODY
IN DISPUTES INVOLVING THE CARE AND CUSTODY OF MINOR
CHILDREN.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-56a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) For the purposes of this section, ["joint custody"] "shared
4 custody" means an order (1) awarding legal custody of the minor child
5 to both parents, providing for [joint] shared decision-making by the
6 parents on matters relating to a child's welfare, including, but not
7 limited to, matters relating to education, medical care, and emotional,
8 moral, social and religious development, and (2) providing that
9 physical custody shall be shared by the parents in such a way as to
10 [assure the child of continuing contact with both parents. The court
11 may award joint legal custody without awarding joint physical
12 custody where the parents have agreed to merely joint legal custody.]
13 ensure that each parent exercises physical care of the child for
14 substantial periods of time. An equal sharing of physical care and

15 control of the child shall not be required when the court enters an
16 award of shared custody.

17 (b) There shall be a presumption, affecting the burden of proof, that
18 [joint] shared custody is in the best interests of a minor child where the
19 parents have agreed to an award of [joint] shared custody or so agree
20 in open court at a hearing for the purpose of determining the custody
21 of the minor child or children of the marriage. If the court declines to
22 enter an order awarding [joint] shared custody pursuant to this
23 subsection, the court shall state in its decision the reasons for denial of
24 an award of [joint] shared custody.

25 (c) If only one parent seeks an order of [joint] shared custody upon a
26 motion duly made, the court may order both parties to submit to
27 conciliation at their own expense with the costs of such conciliation to
28 be borne by the parties as the court directs according to each party's
29 ability to pay.

30 (d) In any proceeding before the Superior Court involving a dispute
31 between the parents of a minor child with respect to the custody, care,
32 education and upbringing of such child, the parents shall file with the
33 court, at such time and in such form as provided by rule of court, a
34 proposed parental responsibility plan that shall include, at a
35 minimum, the following: (1) A schedule of the physical residence of
36 the child during the year; (2) provisions allocating shared decision-
37 making authority to [one or] both parents regarding the child's [health,
38 education and religious upbringing] welfare, including, but not limited
39 to, matters relating to education, medical care, and emotional, moral,
40 social and religious development; (3) provisions for the resolution of
41 future disputes between the parents, including, where appropriate, the
42 involvement of a mental health professional or other parties to assist
43 the parents in reaching a developmentally appropriate resolution to
44 such disputes; (4) provisions for dealing with the parents' failure to
45 honor their responsibilities under the plan; (5) provisions for dealing
46 with the child's changing needs as the child grows and matures; and

47 (6) provisions for minimizing the child's exposure to harmful parental
48 conflict, encouraging the parents in appropriate circumstances to meet
49 their responsibilities through agreements, and protecting the best
50 interests of the child.

51 (e) The objectives of a parental responsibility plan under this section
52 are to provide for the child's physical care and emotional stability, to
53 provide for the child's changing needs as the child grows and to set
54 forth the authority and responsibility of each parent with respect to the
55 child.

56 (f) If both parents consent to a parental responsibility plan under
57 this section, such plan shall be approved by the court as the custodial
58 and access orders of the court pursuant to section 46b-56, as amended
59 by this act, unless the court finds that such plan as submitted and
60 agreed to is not in the best interests of the child.

61 (g) The court may modify any orders made under this section in
62 accordance with section 46b-56, as amended by this act.

63 Sec. 2. Subsection (c) of section 46b-56e of the general statutes is
64 repealed and the following is substituted in lieu thereof (*Effective*
65 *October 1, 2013*):

66 (c) If a parent is a member of the armed forces, has sole or [joint]
67 shared custody of a child or court ordered visitation, parental access or
68 parenting time and receives notice from military leadership that he or
69 she will deploy or mobilize in the near future and will be required to
70 be separated from such child due to such deployment or mobilization,
71 then upon motion of such deploying parent or the nondeploying
72 parent, a court may enter temporary orders of custody or visitation
73 modifying final orders of custody or visitation during the period of
74 such deployment or mobilization if: (1) The deployment or
75 mobilization would have a material effect upon the deploying parent's
76 ability to exercise parental rights and responsibilities or parent-child
77 contact as set forth in the existing final orders of custody or visitation,

78 and (2) the court finds that such modification is in the best interests of
79 the child. In issuing such temporary modification orders, the court
80 shall be guided by the provisions of the general statutes pertaining to
81 custody and visitation. Motions for temporary modification of final
82 orders of custody or visitation because of deployment or mobilization
83 shall be given priority for this purpose.

84 Sec. 3. Subsection (b) of section 46b-56 of the general statutes is
85 repealed and the following is substituted in lieu thereof (*Effective*
86 *October 1, 2013*):

87 (b) In making or modifying any order as provided in subsection (a)
88 of this section, the rights and responsibilities of both parents shall be
89 considered and the court shall enter orders accordingly that serve the
90 best interests of the child and provide the child with the active and
91 consistent involvement of both parents commensurate with their
92 abilities and interests. Such orders may include, but shall not be
93 limited to: (1) Approval of a parental responsibility plan agreed to by
94 the parents pursuant to section 46b-56a, as amended by this act; (2) the
95 award of [joint] shared parental responsibility of a minor child to both
96 parents, which shall include (A) provisions for residential
97 arrangements with each parent in accordance with the needs of the
98 child and the parents, and (B) provisions for consultation between the
99 parents and for the making of major decisions regarding the child's
100 [health, education and religious upbringing] welfare, including, but
101 not limited to, matters relating to education, medical care, and
102 emotional, moral, social and religious development; (3) the award of
103 sole custody to one parent with appropriate parenting time for the
104 noncustodial parent where sole custody is in the best interests of the
105 child; or (4) any other custody arrangements as the court may
106 determine to be in the best interests of the child.

107 Sec. 4. Section 46b-56 of the general statutes is amended by adding
108 subsection (j) as follows (*Effective October 1, 2013*):

109 (NEW) (j) In any controversy before the Superior Court as to the
110 custody or care of minor children, any parent who is alleged to have
111 knowingly made a false statement to the court relating to the care and
112 custody of the minor children may be referred by the court to the office
113 of the Chief State's Attorney for purposes of a criminal investigation.
114 Any parent who knowingly makes a false statement to the court
115 relating to the care and custody of a minor child may be fined not
116 more than two thousand dollars or imprisoned not more than one year
117 or both.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	46b-56a
Sec. 2	<i>October 1, 2013</i>	46b-56e(c)
Sec. 3	<i>October 1, 2013</i>	46b-56(b)
Sec. 4	<i>October 1, 2013</i>	46b-56

Statement of Purpose:

To (1) establish a presumption of shared custody in any dispute involving the care and custody of minor children, and (2) provide the court with sanctions that may be imposed against a parent who knowingly makes a false statement to the court in a proceeding relating to the care and custody of minor children.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]