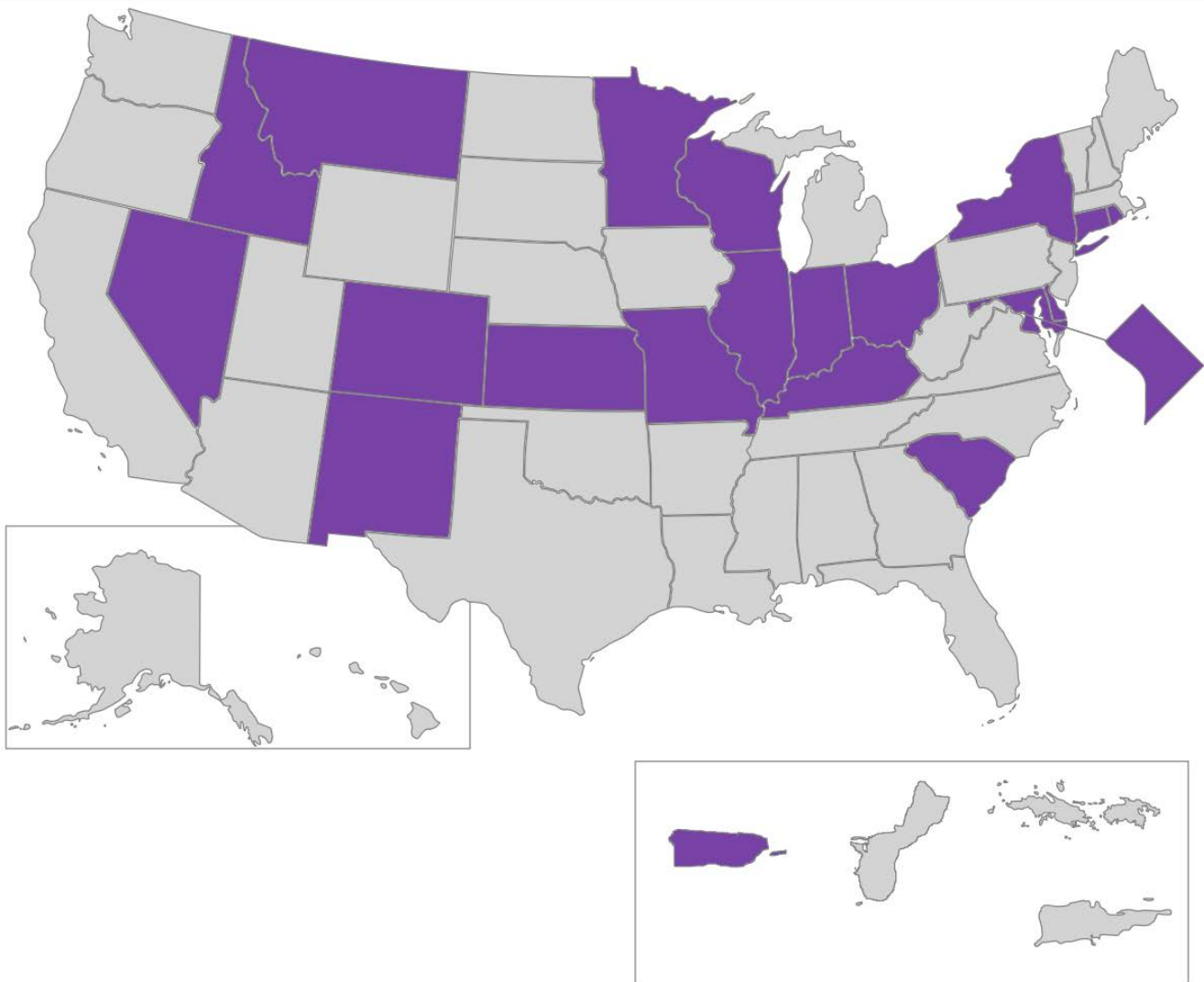


Best Interests of the Child - Parental Wishes Factor¹

By Morgan Lewis and Bockius LLP² – December 29, 2017

Disclaimer: The Statute Analysis Map and reports can be powerful resources and training tools, but do not remove the responsibility of each and every lawyer to engage in original analysis and research, including by taking into consideration the facts relevant to a particular client’s circumstances. Reports are labeled with the date of last update. If you reach a conclusion that conflicts with the material herein, you can contribute to our knowledge by sending an email to the Morgan Lewis Knowledge Management and Training Team at knowledgemanagement@morganlewis.com.

Purple states have a relevant factor for determining a child’s best interests in a custody dispute. Please note that many states provide additional or different factors for determining a child’s best interests in other circumstances (e.g., adoption, visitation, or termination of parental rights). See “Factors in State Laws” for comprehensive information on child’s best interests statutes.



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² Developed for the National Immigrant Women’s Advocacy Project, American University, Washington College of Law.

Jurisdiction	Governed by Statute	Factors a court will consider:
Alabama	No	N/A
Alaska	No	N/A
American Samoa	No	N/A
Arizona	No	N/A
Arkansas	No	N/A
California	No	N/A
Colorado	Yes	Colo. Rev. Stat. Ann. § 14-10-124: <ul style="list-style-type: none"> wishes of parent or parents
Connecticut	Yes	Conn. Ge. Stat. Section 46b-56: <ul style="list-style-type: none"> wishes of child's parent or parents as to custody and residential arrangements
Delaware	Yes	13 Del. C. § 722: <ul style="list-style-type: none"> wishes of child's parent or parents as to custody and residential arrangements
District of Columbia	Yes	D.C. Code Section 16-831.08: <ul style="list-style-type: none"> wishes of parent or parents
Florida	No	N/A
Georgia	No	N/A
Guam	No	N/A
Hawaii	No	N/A
Idaho	Yes	ID Statutes 32-717: <ul style="list-style-type: none"> wishes of child's parent or parents
Illinois	Yes	750 Ill. Comp. Stat. Ann. 5/602.7: <ul style="list-style-type: none"> prior agreements or course of conduct related to caretaking functions parent's wishes
Indiana	Yes	Ind. Code Ann. § 31-14-13-2; 31-14-13-2.5:

Jurisdiction	Governed by Statute	Factors a court will consider:
		<ul style="list-style-type: none"> • parents' wishes
Iowa	No	N/A
Kansas	Yes	Kan. Stat. Ann. § 23-3203: <ul style="list-style-type: none"> • desires of the child's parents
Kentucky	Yes	Ky. Rev. Stat. Ann. § 403.270 (2): <ul style="list-style-type: none"> • intent of the parent or parents in placing the child with a de facto custodian • wishes of the child's parent or parents, and any de facto custodian, as to his custody
Louisiana	No	N/A
Maine	No	N/A
Maryland	Yes	MD Family § 5-323(d): <ul style="list-style-type: none"> • desires of parents and any agreement between them
Massachusetts	No	N/A
Michigan	No	N/A
Minnesota	Yes	MN ST § 257C.04: <ul style="list-style-type: none"> • wishes of the parties
Mississippi	No	N/A
Missouri	Yes	Mo. Stat. Ann. § 452.375.2 (West 2017): <ul style="list-style-type: none"> • wishes of parents
Montana	Yes	Mont. Code Ann. § 40-4-212(1) (West 2017): <ul style="list-style-type: none"> • wishes of parents
Nebraska	No	N/A
Nevada	Yes	Nev. Rev. Stat. Ann. § 125C.0035 (West 2017): <ul style="list-style-type: none"> • parent's nomination of a guardian for the child
New Hampshire	No	N/A
New Jersey	No	N/A

Jurisdiction	Governed by Statute	Factors a court will consider:
New Mexico	Yes	N.M. Stat. Ann. §40-4-9 (West 2017): <ul style="list-style-type: none"> wishes of parent
New York	Yes	N.Y. Domestic Relations Law § 240 (McKinney 2016): <ul style="list-style-type: none"> wishes of parents
North Carolina	No	N/A
North Dakota	No	N/A
Northern Mariana Islands	No	N/A
Ohio	Yes	31 Ohio Rev. Code Ann. § 3109.4(F): <ul style="list-style-type: none"> wishes of parents
Oklahoma	No	N/A
Oregon	No	N/A
Pennsylvania	No	N/A
Puerto Rico	Yes	P.R. Leyes An. tit. 32 § 3187 (2017): <ul style="list-style-type: none"> parent's lack of interest in custody of child
Rhode Island	Yes	<i>Pettinato v. Pettinato</i> , 582 A. 2d 909, 913-14 (R.I. 1990): <ul style="list-style-type: none"> wishes of the child's parent or parents regarding the child's custody
South Carolina	Yes	S.C. Code Ann. § 63-15-240(B): <ul style="list-style-type: none"> wishes of the parents as to custody
South Dakota	No	N/A
Tennessee	No	N/A
Texas	No	N/A
U.S. Virgin Islands	No	N/A
Utah	No	N/A
Vermont	No	N/A
Virginia	No	N/A

Jurisdiction	Governed by Statute	Factors a court will consider:
Washington	No	N/A
West Virginia	No	N/A
Wisconsin	Yes	Wis. Stat. Section 767.41(5)(am) (2017): <ul style="list-style-type: none">• wishes of the parent or parents
Wyoming	No	N/A

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