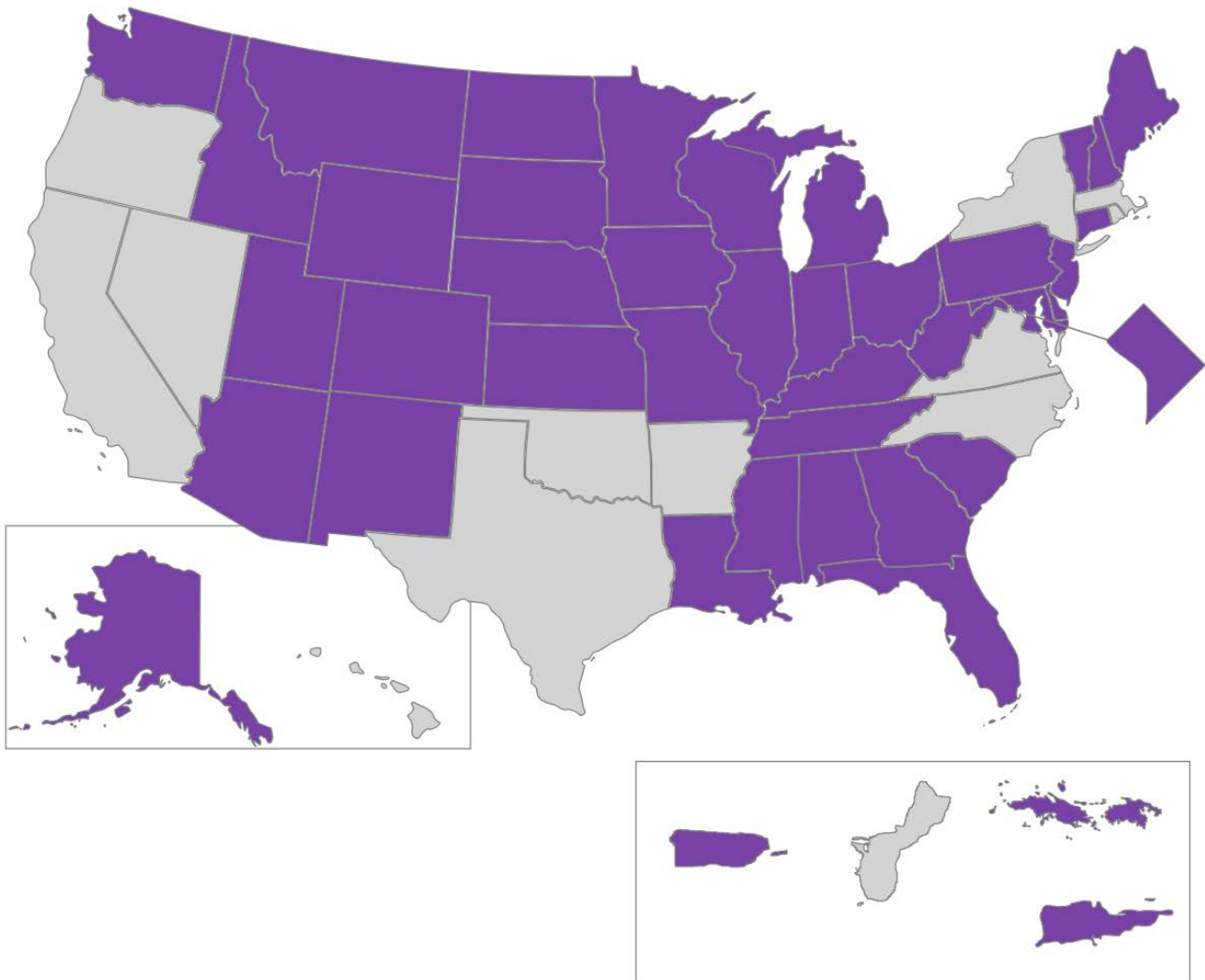


Best Interests of the Child - Continuity & Stability of Child Factor¹

By Morgan Lewis and Bockius LLP² – December 29, 2017

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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	Yes	Ala. Code § 30-3-152: <ul style="list-style-type: none"> location of parents
Alaska	Yes	Alaska Stat. § 25.24.150, Alaska Stat. § 25.20.090: <ul style="list-style-type: none"> advantages of keeping current home (for joint custody determinations) proximity of home to school, other parent length of time the child has lived in a stable, satisfactory environment and feasibility of maintaining continuity stability of proposed home environment
American Samoa	No	N/A
Arizona	Yes	Ariz. Rev. Stat. Ann. § 25-403: <ul style="list-style-type: none"> adjustment to home, school, community
Arkansas	No	N/A
California	No	N/A
Colorado	Yes	Colo. Rev. Stat. Ann. § 14-10-124: <ul style="list-style-type: none"> adjustment to home, school, and community proximity of parents
Connecticut	Yes	Conn. Gen. Stat. Section 46b-56: <ul style="list-style-type: none"> child's adjustment to home, school and community environments length of time that child has lived in stable environment, provided court may consider favorably a parent who voluntarily leaves child's family home pendent lite to alleviate stress in household stability of child's existing or proposed residences
Delaware	Yes	13 Del. C. § 722: <ul style="list-style-type: none"> adjustment to his or her home, school and community distance between the parental homes

Jurisdiction	Governed by Statute	Factors a court will consider:
		<ul style="list-style-type: none"> potential disruption of child’s social and school life
District of Columbia	Yes	D.C. Code Section 16-831.08: <ul style="list-style-type: none"> continuity of care and caretakers, and for timely integration into a stable and permanent home child’s adjustment to his or her home, school and community
Florida	Yes	Fl. St. 61.13(3): <ul style="list-style-type: none"> demonstrated capacity of parent to provide consistent routine for child, such as discipline, and daily schedules for homework, meals, and bedtime geographic viability of parenting plan length of time child has lived in stable environment and desirability of maintaining continuity time-sharing schedule records of the child: home, school and community
Georgia	Yes	O.C.G.A. 19-9-3 (a) (3): <ul style="list-style-type: none"> continuity and stability in the child's life and length of time child has lived in a stable, satisfactory environment parent's employment schedule and related flexibility of a parent to care for the child stability of family unit and strength of each parent’s support system
Guam	No	N/A
Hawaii	No	N/A
Idaho	Yes	ID Statutes 32-717: <ul style="list-style-type: none"> maintain frequent and continuing contact with both parents child’s adjustment to his or her home, school, and community

Jurisdiction	Governed by Statute	Factors a court will consider:
		<ul style="list-style-type: none"> • need to promote continuity and stability in the life of the child
Illinois	Yes	750 Ill. Comp. Stat. Ann. 5/602.7 (West 2016): <ul style="list-style-type: none"> • child's adjustment to his or her home, school and the community • distance between the parents' residences, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement
Indiana	Yes	Ind. Code Ann. § 31-14-13-2; 31-14-13-2.5: <ul style="list-style-type: none"> • child's adjustment to home, school, and community
Iowa	Yes	Iowa Code Ann. § 598.41: <ul style="list-style-type: none"> • geographic proximity of the parents • whether the parent has actively cared for the child
Kansas	Yes	Kan. Stat. Ann. § 23-3203: <ul style="list-style-type: none"> • child's adjustment to the child's home, school and community • length of time that the child has been under the actual care and control of any person other than a parent
Kentucky	Yes	Ky. Rev. Stat. Ann. § 403.270 (2): <ul style="list-style-type: none"> • child's adjustment to his home, school, and community • extent to which child has been cared for, nurtured, and supported by any de facto custodian
Louisiana	Yes	La. Civ. Code Ann. art. 134: <ul style="list-style-type: none"> • distance between the respective residences of the parties • home, school, and community history of the child • length of time the child has lived in a stable, adequate environment, and the desirability of maintaining continuity of that environment

Jurisdiction	Governed by Statute	Factors a court will consider:
		<ul style="list-style-type: none"> • permanence, as a family unit, of the existing or proposed custodial home or homes
Maine	Yes	ME ST T. 19-A § 1653: <ul style="list-style-type: none"> • adjustment to the child's present home, school, and community • duration and adequacy of the child's current living arrangements • stability of the proposed living arrangements
Maryland	Yes	MD Family § 5-323(d): <ul style="list-style-type: none"> • residences of parents and opportunity for visitation
Massachusetts	No	MA ST § 32 and 209C § 10: <ul style="list-style-type: none"> • where and with whom child has resided within last six month
Michigan	Yes	MI ST 722.23, Sec. 3: <ul style="list-style-type: none"> • home, school, and community record of child • length of time child has lived in a stable environment • permanence as a family unit of the existing or proposed home
Minnesota	Yes	MN ST § 257C.04: <ul style="list-style-type: none"> • child's adjustment to home, school, and community • length of time child has lived in stable, satisfactory environment • permanence as a family unit of the existing or proposed custodial home
Mississippi	Yes	<i>Albright v. Albright</i> , 437 So.2d 1003, 1005 (Miss. 1983): <ul style="list-style-type: none"> • preference for parent that has had continuity of care prior the separation • home school and community record of the child

Jurisdiction	Governed by Statute	Factors a court will consider:
		<ul style="list-style-type: none"> stability of the home environment and employment of the parent
Missouri	Yes	Mo. Ann. Stat. § 452.375.2 (West 2017): <ul style="list-style-type: none"> intention to relocate child's principal residence adjustment to child's home, school, and community
Montana	Yes	Mont. Code Ann. § 40-4-212(1) (West 2017): <ul style="list-style-type: none"> adjustment to home, school, and community continuity and stability of care
Nebraska	Yes	<i>Schrag v. Spear</i> , 858 N.W. 2d 865, 877 (2015): <ul style="list-style-type: none"> effect of continuing or disrupting existing relationship
Nevada	No	N/A
New Hampshire	Yes	N.H. Rev. Stat. Ann. § 461-A:6 (West 2017): <ul style="list-style-type: none"> adjustment to school and community
New Jersey	Yes	N.J.S.A. § 9.2-4.: <ul style="list-style-type: none"> geographical proximity of the parents' homes stability of the home environment offered quality and continuity of child's education
New Mexico	Yes	N.M. Stat. Ann. §§ 40-4-9; 40-4-9.1 (West 2017): <ul style="list-style-type: none"> adjustment to home, school, and community geographic distance between parents
New York	No	N/A
North Carolina	No	N/A
North Dakota	Yes	N.D.C.C. § 14-09-06.2: <ul style="list-style-type: none"> home, school, and community records of the child and the potential effect of any change stability of home environment including child's interaction with other individuals in the home

Jurisdiction	Governed by Statute	Factors a court will consider:
Northern Mariana Islands	No	N/A
Ohio	Yes	31 Ohio Rev. Code Ann. § 3109.4(F): <ul style="list-style-type: none"> child's adjustment to the child's home, school, and community geographic location of the parents and whether out-of-state
Oklahoma	No	N/A
Oregon	No	ORS § 107.137: <ul style="list-style-type: none"> desirability of continuing an existing relationship
Pennsylvania	Yes	23 Pa.C.S. § 5328: <ul style="list-style-type: none"> proximity of the residences of the parties need for stability and continuity in the child's education, family life, and community life
Puerto Rico	Yes	P.R. Leyes An. tit. 32 § 3185 (2017): <ul style="list-style-type: none"> if the location and distance between parents' homes would affect the education of the child
Rhode Island	No	<i>Pettinato v. Pettinato</i> , 582 A.2d 909, 913-14 (R.I. 1990): <ul style="list-style-type: none"> the child's adjustment to the child's home, school, and community the stability of the child's home environment
South Carolina	Yes	S.C. Code Ann. § 63-15-240(B): <ul style="list-style-type: none"> stability of the child's existing and proposed residences whether one parent has relocated more than one hundred miles from the child's primary residence in the past year (unless the parent relocated for safety reasons) the child's adjustment to the child's home, school, and community environments
South Dakota	Yes	<i>Fuerstenberg v. Fuerstenberg</i> , 1999 SD 35, N.W.2d 798, 1999 S.D. Lexis 43 (S.D. 1999):

Jurisdiction	Governed by Statute	Factors a court will consider:
		<ul style="list-style-type: none"> who can provide a stable and consistent home environment
Tennessee	Yes	Tenn. Code Ann. § 36-6-106(a): <ul style="list-style-type: none"> continuity in the child’s life and the length of time the child has lived in a stable, satisfactory environment degree to which parent has been primary caregiver (defined as the parent who has taken the greater responsibility for performing parental responsibilities)
Texas	No	N/A
U.S. Virgin Islands	Yes	<i>James v. Faust</i> , 65 V.I. 349 (V.I. 2016): <ul style="list-style-type: none"> respective home environments; including possible impact of relocation
Utah	Yes	Utah Code 30-3-10(2) 2017; 621A-4a-201(1)(c); 78A-6-503(8) (2017): <ul style="list-style-type: none"> geographical proximity of parents’ homes whether both parents participated in raising of child
Vermont	Yes	Vt. Stat. Ann. tit. 15 § 665(b)(1)-(9) (2017): <ul style="list-style-type: none"> quality of the child's adjustment to the child's present housing, school, and community and the potential effect of any change
Virginia	No	N/A
Washington	Yes	Wash. Rev. Code § 26.09.191 (2017): <ul style="list-style-type: none"> maintain a child’s emotional growth, health, stability and physical care
West Virginia	Yes	W.V. Code Section 48-9-102 (2017): <ul style="list-style-type: none"> stability of a child predictable decision-making and avoidance of prolonged uncertainty regarding child’s care and control continuity of existing parent-child relationships
Wisconsin	Yes	Wis. Stat. Section 767.41(5)(am) (2017):

Jurisdiction	Governed by Statute	Factors a court will consider:
		<ul style="list-style-type: none"> • adjustment of a child to community, home, religion and school • predictability and stability for the child
Wyoming	Yes	Wyo. Stat. Ann. 20-2-201 (2017): <ul style="list-style-type: none"> • geographic distance between the parents' residences

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