

FACTORS IN DETERMINING BEST INTEREST OF CHILDREN

The following is list of factors that the court shall in consider in determining the best interest of the child. Please provide responses that you feel Rocheleau Law should know about. Use N/A if a factor is Not Applicable.

- (a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her custody.
* This factor rarely applies to children under the age of 10; however, if there is actually a justified reason why a child does NOT want to be with one parent [i.e., the mother or father beats the child with a belt every time they are late getting home or for not cleaning their rooms well enough].

- (b) Any nomination by a parent or a guardian for the child.
* This factor is almost always Not Applicable, because it usually involves third parties or other intervening parties, such as grandparents, aunts/uncles, etc.

- (c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the non-custodial parent.
* This factor has two parts: (1) and (2), and although is usually always a negative issue, in rare instances can be positive.
Part (1) is for frustration/non-cooperative parent who makes exchanges and overall visitation very difficult [i.e., is always late for exchanges, is constantly changing the place/time/etc. for visitations]
Part (2) is to show how one parent creates "bad" feelings between the child and the other parent [i.e., when the mother or father keeps the child from spending any quality time with the other parent and by talking bad about the other parent around the child all the time]

(d) The level of conflict between the parents.

* This factor is for stating how good or bad any fighting/arguments between the parties (orally or in writing--texts, etc.) and how often the child(ren) are put in the middle of arguments/disagreements. Such as when one of the parents is constantly being difficult and non-cooperative when it comes to the other parent's visitation dates/times, etc. This factor can also include domestic violence, but only the non-documented incidents [i.e., no police called and no report taken].

(e) The ability of the parents to cooperate to meet the needs of the child.

* This factor shows how well/bad a parent communicates and helps the other parent with regard to the needs of a child such as providing food/drinks for a particular necessary diet, or being aware of the child's doctors visits, etc. In addition, showing whether or not one parent keeps the other one informed as to when/where a child's special events take place, such as school or sports activity.

(f) The mental and physical health of the parents.

* This factor is to show a parent's ability to "parent" the child. This would be for physical ailments of either parent which would prevent them from being able to properly care for a child physically [i.e., if one parent is much older and weaker and/or if there is a family history of heart attacks or other serious illnesses]. As for mental health, it has to be an actual diagnosed disorder—not someone's opinion that the parent is "crazy." This includes addictions of either parent (alcohol, drug, other).

(g) The physical, developmental and emotional needs of the child.

* This is the "catch all" factor [i.e., if the information is not relevant to any other factor, you would list it here]. This factor is for discussion with regard to which party is the better parent and why. For example, list any skill that a parent has which would be more beneficial to the child [i.e., if the parent is a teacher, they would be better at helping in the development and learning skills of a child; or if one parent is a doctor/nurse, they would be better at dealing with the health/well-being of a child]. Also, stability is a strong point to add here, if applicable.

(h) The nature of the relationship of the child with each parent.

* This factor is very relevant for teenage children who can express their feelings towards either parent. Also, any breastfeeding of a child would be stated here. This is for explanation of the "bond" between a child and one of the parents, versus the other parent.

- (i) The ability of the child to maintain a relationship with any sibling.
* This factor is for listing any other siblings in the family and/or extended family that is a reason why a child would be better to live with one parent over the other [i.e., step-children/children of the opposing party, if not married].

- (j) Any history of parental abuse or neglect of the child or a sibling of the child.
* This factor is for actual documented proof (CPS reports/medical records) which shows abuse of a child or any sibling (including step-children/children of the opposing party, if not married) to show whether a parent is or has been abusive or neglectful towards any child involved in the family. In addition, you can give all information as to where, when, who, etc.

- (k) Whether either parent or any other person seeking custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.
* This factor is also only for documented domestic violence (with police/CPS reports, arrest reports and/or medical records).

- (l) Whether either parent or any other person seeking custody has committed any act of abduction against the child or any other child.
* This factor is for any incident of actual abduction in direct violation of any court order (temporary or entered) [i.e., not delivering a child when and where ordered] and this does not mean instances where one parent is not doing what they agreed to in an oral agreement of the parties.
