

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

H.B. 830  
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30382-LU-83

Short Title: Child Custody/Ct. Ordered MH Assessment.

(Public)

Sponsors: Representative Everitt.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A COURT MAY ORDER AN EVALUATION BY A MENTAL HEALTH PROFESSIONAL OF THE PARTIES TO A CHILD CUSTODY PROCEEDING.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 50-13.2 reads as rewritten:

**"§ 50-13.2. Who entitled to custody; terms of custody; visitation rights of grandparents; taking child out of State; consideration of parent's military service.**

(a) An order for custody of a minor child entered pursuant to this section shall award the custody of such child to such person, agency, organization or institution as will best promote the interest and welfare of the child. In making the determination, the court shall consider all relevant factors including acts of domestic violence between the parties, the safety of the child, and the safety of either party from domestic violence by the other party. An order for custody must include written findings of fact that reflect the consideration of each of these factors and that support the determination of what is in the best interest of the child. Between the parents, whether natural or adoptive, no presumption shall apply as to who will better promote the interest and welfare of the child. Joint custody to the parents shall be considered upon the request of either parent.

(b) ~~An~~ Subject to subsection (b3) of this section, an order for custody of a minor child may grant joint custody to the parents, exclusive custody to one person, agency, organization, or institution, or grant custody to two or more persons, agencies, organizations, or institutions. Any order for custody shall include such terms, including visitation, as will best promote the interest and welfare of the child. If the court finds that domestic violence has occurred, the court shall enter such orders that best protect the children and party who were the victims of domestic violence, in accordance with the provisions of G.S. 50B-3(a1)(1), (2), and (3). If a party is absent or relocates with or without the children because of an act of domestic violence, the absence or relocation shall not be a factor that weighs against the party in determining custody or visitation. Absent an order of the court to the contrary, each parent shall have equal access to the records of the minor child involving the health, education, and welfare of the child.

...

(b3) In a proceeding establishing or modifying an order for custody, in which one parent who is physically available in this State to remain actively involved in a minor child's life proposes joint custody and the other parent objects to joint custody or seeks exclusive custody, the court may order an evaluation and recommendation as prescribed in subsection (h) of this section. The court may take into consideration any such recommendation in establishing or modifying an order for custody. There is a rebuttable presumption that joint custody is in the best interest of the child.



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2 (g) In a proceeding to enforce an order of custody or visitation, in which the court finds  
3 one parent has consistently complied with the material terms and conditions of the order and the  
4 other parent either (i) demonstrates a pattern and practice of willful noncompliance or (ii) has  
5 three material violations without reasonable excuse, the court may order an evaluation and  
6 recommendation as prescribed in subsection (h) of this section.

7 (h) In appropriate matters, including those matters identified in subsections (b3) and (g)  
8 of this section, the court may order the parties to submit to an evaluation conducted by a licensed  
9 mental health professional or to any other professional who can assist the court, taking into  
10 account the resources of the parties and the availability of professionals in the locale. The court  
11 may order the professional to conduct the evaluation and make a written report in a reasonable  
12 period of time, not to exceed three months from the date of the order. In establishing, modifying,  
13 or enforcing an order for custody, the court may take into consideration each party's good faith  
14 or lack of good faith in participating in the evaluation, including whether or not the party with  
15 custody of the child made the child available to the professional. In appointing a professional,  
16 the court may, to the extent possible, select a mental health provider with experience in family  
17 systems and the attachment system. The report may be admissible as evidence without regard to  
18 any rule against hearsay."

19 **SECTION 2.** This act becomes effective October 1, 2021, and applies to all pending  
20 and future proceedings related to the custody of a minor child.