

Sec. 304-C. Best interest and welfare of child - Court consideration - Factors.

(a) For the purpose of parental rights and responsibilities, the best interests and welfare of the child is determined by the Court's consideration and evaluation of all factors affecting the best interests and welfare of the child. These factors include all of the following when applicable:

(1) The love, affection, and other emotional ties existing between the parents and child and the ability of each parent to provide the child with nurture, love, affection and guidance.

(2) The ability of each parent to assure that the child receives adequate food, clothing, shelter, medical care, and a safe environment.

(3) The child's developmental needs and the ability of each parent to meet those needs, both in the present and in the future.

(4) The sufficiency and stability of each parent's home environment, the impact of extended family, the length of time the child has lived in each parent's home, and the desirability of maintaining continuity in the child's home and community.

(5) The willingness and ability of each parent to facilitate and encourage learning and participating in the culture and traditions of the Fort Peck Tribes.

(6) The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child.

(7) The moral fitness of the parents, as that fitness impacts the child.

(8) The mental and physical health of the parents, as that health impacts the child.

(9) The home, school, and community records of the child and the potential effect of any change.

(10) If the Court finds by clear and convincing evidence that a child is of sufficient maturity to make a sound judgment, the Court may give substantial weight to the preference of the mature child. The Court shall also give due consideration to other factors that may have affected the child's preference, including whether the child's preference was based on undesirable or improper influences.

(11) *Evidence of domestic violence.* In determining parental rights and responsibilities, the Court shall consider evidence of domestic violence. If the Court finds credible evidence that domestic violence has occurred, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, this combination creates a rebuttable presumption that a parent who has perpetrated domestic violence may not be awarded custody of the child.

This presumption may be overcome only by clear and convincing evidence that the best interests of the child require that parent have custody. The Court shall cite specific findings of fact to show that the custody best protects the child and the parent or other family or household member who is the victim of domestic violence.

If necessary to protect the welfare of the child, residential responsibility for a child may be awarded to a suitable third person, provided that the person would not allow access to a violent parent except as ordered by the Court. If the Court awards residential responsibility to a third person, the Court shall give priority to the child's nearest suitable adult relative.

The fact that the abused parent suffers from the effects of the abuse may not be grounds

for denying the parent residential responsibility.

(12) The interaction and interrelationship, or the potential for interaction and interrelationship, of the child with any person who resides in, is present, or frequents the household of a parent and who may significantly affect the child's best interests. The Court shall consider that person's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault, on other persons.

(13) The making of false allegations not made in good faith , by one parent against the other.

(14) Any other factors considered by the Court to be relevant to a particular parental rights and responsibilities dispute.

(b) In a proceeding for parental rights and responsibilities of a child of a service member, the Court may not consider a parent's past deployment or possible future deployment in itself in determining the best interests of the child but may consider any significant impact on the best interests of the child of the parent's past or possible future deployment.

(c) (1) In any proceeding under this Chapter, the Court shall consider that a parent has a fundamental right to parent their child and any analysis in a fact finding under his Chapter shall reflect the Court's application of this standard to a final custody determination, listing any factors considered under subsection (a) (1-14).

(2) The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.

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