

Child Preference Chart

STATE	STATUTE- Child Preference/Best Interests	TAKE CHILD'S WISHES INTO CONSIDERATION?
Alabama	Ala. Code § 30-3-152 (2000)	NO
Alaska	A.S. 25.24.150 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY
Arizona	A.R.S. § 25-403 (2000)	CW
Arkansas	A.C.A. § 9-13-101 (2000)	NO
California	Cal. Fam. Code § 3042 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY
Colorado	C.R.S.A. § 14-10-124 (2000)	CW IF OF SUFFICIENT AGE & CAPACITY
Connecticut	C.G.S.A. § 46b-57 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY
Delaware	13 Del. C. § 722 (2000)	CW
D.C.	D.C. CODE 1981 § 16-911	CW
Florida	F.S.A. § 61.13 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY
Georgia	O.C.G.A. §19-9-1 (2000)	CW IF OF SUFFICIENT AGE & CAPACITY
Hawaii	H.R.S. §571-46 (2000)	CW
Idaho	I.C. § 32-717 (2000)	CW
Illinois	750 ILCS 5/602, 5/506 (2000)	CW
Indiana	IC 31-17-2-8 , 31-17-2-12 (2000)	CW IF AT LEAST 14
Iowa	I.C.A. § 598.41 (2000)	NO
Kansas	K.S.A. § 60-1610, 60-1614 (2000)	CW
Kentucky	KRS § 403.270, 403.290 (2000)	CW
Louisiana	LSA-R.S. 9:345 (2001)	CW IF OVER 12 (adoptions)
Maine	19-A M.R.S. § 1653 (2000)	CW IF OF SUFFICIENT AGE & CAPACITY
Maryland	Md. FAMILY LAW Code Ann. § 9-103 (2000)	NO, BUT IF OVER 16, CAN PETITION TO CHANGE CUSTODY
Massachusetts	M.G.L.A. 251 § 56A (2000)? 208 §31	NO
Michigan	M.C.L.A. 722.23 (2000)	CW IF OF SUFFICIENT AGE & CAPACITY
Minnesota	M.S.A. § 518.166 (2000)	CW IF OF SUFFICIENT AGE & CAPACITY

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Mississippi	Miss. Code Ann. § 93-5-24	NO
Missouri	V.A.M.S. 452.375, 452.490 (2000)	CW
Montana	MCA 40-4-212, 40-4-215 (2000)	CW
Nebraska	R.R.S. Neb. § 42.364, 43-272.01 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY
Nevada	Nev. Rev. Stat. Ann. § 125.480	CW IF OF SUFFICIENT AGE & CAPACITY
New Hampshire	RSA 458:17 (2000)	CW IF OF SUFFICIENT AGE & CAPACITY
New Jersey	N.J. Stat. § 9:2-4 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY
New Mexico	N.M. Stat. Ann. § 40-4-9 (2000)	CW
New York	NY CLS Family Ct. Act § 241-249 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY
North Carolina	N.C.G.S.A. § 50-13.2 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY (case law interpretation of statute)
North Dakota	N.D. Cent. Code, § 14-09-06.2 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY
Ohio	R.C. § 3109.04 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY (need to be interviewed in chambers)
Oklahoma	43 Okl. St. Ann. §109 (2000) 43 Okl. St. Ann §113	CW IF OF SUFFICIENT AGE & CAPACITY (rebuttable presumption that 12 is of age and capacity)
Oregon	O.R.S. § 107.137 (1999)	NO
Pennsylvania	23 Pa.C.S.A. § 5303 (2000)	CW
Rhode Island	R.I. Gen. Laws, § 15-5-16 (2000) §15-5-19	NS
South Carolina	S.C. Code Ann. § 20-7-515 (2000)	NO STATUTE
South Dakota	S.D. Codified Laws § 25-4-45 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY
Tennessee	Tenn. Code Ann. § 36-6-106 (2001)	CW IF OVER 12
Texas	Tex. Fam. Code § 153.008, 153.009, 104.003, 107.002 (2000)	CW IF OVER 12
Utah	Utah Code Ann. § 30-3-5, 30-3-10 (2000)	CW (added weight to children over 16)

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Vermont	15A V.S.A. § 594 (2001)	NO
Virginia	Va. Code Ann. § 16.1-266, 20-124.3 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY
Washington	A.R.C.W. § 26.09.002, 26.09.187 (2001)	CW IF OF SUFFICIENT AGE & CAPACITY
West Virginia	W.Va. Code § 48-2B-5 (2001)	NS
Wisconsin	Wis. Stat. § 767.24, 767.081 (2000)	CW
Wyoming	Wyo. Stat. § 20-2-201 (2001)	NO BY STATUTE, YES BY CASE LAW

CW IF OF SUFFICIENT AGE & CAPACITY: Court must take child's wishes into consideration in custody and visitation decisions if the child is of the age and capacity to form an intelligent preference.

CW: Statute only states that courts must consider child's wishes in making determination.

NS: Statutes do not state what factors a court must take into consideration when making determination.

NO: Factors that a court must take into consideration do not include the child's wishes.