

ALBRIGHT FACTORS

This Court takes note of *Albright* and considers the guidelines which were specified in its decision:

1. Miss. Code Ann. § 93-13-1 would be generally applicable to all cases. Thus, mothers and fathers are to be considered essentially equal in their rights to their children. The statute says, in part, “Neither parent has any right paramount to the right of the other parent concerning the custody of minors.”
2. To abandon the “tender years” principle “would discard a factor worthy of weight in determining the best interest of a child in a particular case.”
3. The “tender years” principle is “not absolute and where unfitness of the mother is found, then the rule is not applied.”
4. “The age of the child is subordinated to” the best interest of the child “and is but one factor to be considered.”
5. Age should carry no greater weight than the health of the child.
6. The sex of the child is equal to the age of the child as a factor to be considered.
7. The court should determine which parent had the continuity of care for the child prior to separation.
8. The court should determine which parent has the best parenting skills.
9. The court should determine which parent has and expresses the willingness and the capacity to provide primary child care.
10. The court should consider and evaluate the employment of each parent and consider the demands, responsibilities, and stability of that employment as it might affect the child and the potential of the parent to serve the best interest of the child.
11. The court should evaluate and consider the mental health of each parent or person seeking custody of the child.
12. The age of the respective parents may be considered by the court.
13. The court should evaluate the emotional ties that already exist between the child and the respective parents.
14. The school and community record of the child should be considered.

15. The preference of the child may be considered where the child is of sufficient age to express such in a reasonable and responsible manner. On this point, additional reference should be made to Miss. Code § 93-11-65.
16. The court should give careful consideration to the stability of the home environment of each parent expressing an interest in having custody of the child or children in issue
17. Marital fault is not to be used as a sanction against custody or as a means of awarding custody.
18. The relative financial stability of the respective parents is not controlling inasmuch as the duty to support is to be determined independently from the right to custody.
19. Differences in religion, personal values and lifestyles should not be the sole basis for custody decisions.
20. The court may consider any other factors relevant to the parent-child relationship, keeping in mind the initial expression of equal standing between the mother and father and the basic principle by which all other factors are to be tested, that being the best interest of the child.

Albright v. Albright, 437 So. 2d 1003 (Miss. 1983).

In later cases the considerations have been reworded and are now generally included in no more than fourteen [14] specific factors, which will be addressed hereafter.

1. the age of the child[ren];
2. health and sex of the child[ren];
3. a determination of the parent that has had the continuity of care prior to the separation;
4. which parent has the best parenting skills and
5. which parent has the willingness and capacity to provide primary child care;
6. the employment of the parent and responsibilities of that employment;
7. physical and mental health and age of parents;
8. emotional ties of parent and child[ren];
9. moral fitness of parents;
10. the home, school and community record of the child[ren];

11. the preference of the child[ren] at the age sufficient to express a preference by law;
12. stability of home environment of each parent and
13. stability of employment of each parent, and
14. other factors relevant to the parent-child relationship.