

## Research Summary

### Statutory Definitions of “Parental Alienation” or “Parental Alienation Syndrome”

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#### OVERVIEW

The topic of parental alienation has primarily arisen in custody disputes between parents and is broadly considered to refer to a child’s security with one caregiver being undermined by exposure to another caregiver’s unfavorable actions or criticism of the targeted caregiver. [Recent research](#) on the use of parental alienation claims in courts finds differences in the custody outcomes in cases where abuse is present versus when such claims arise in non-abuse cases. The American Psychological Association provides a [description](#) of parental alienation syndrome consistent with Richard A. Gardener’s original concept introduced in 1985. Richard A. Gardener was a child psychologist who coined the term to explain symptoms of a child’s rejection of one parent in the context of parental separation or divorce. The American Psychological Association highlights that some courts accept symptoms of parental alienation syndrome “as admissible evidence in child custody disputes, there have been no well-controlled empirical studies that confirm the phenomenon, nor have a standardized assessment process and specific diagnostic criteria been established for it.”

In a search of statutes from all U.S. states, territories and Washington D.C. only one statute was identified by NCSL that directly uses the term “parental alienation” or “parental alienation syndrome.” This statute from Puerto Rico is shared below with the relevant section highlighted.

#### **Puerto Rico § 3185. Criteria to be considered when awarding custody**

When considering a petition for custody where disputes arise between the parties thereto, the court shall refer the case to the social work unit for family relations, or to the licensed professional deemed necessary, such as psychologists, psychiatrist, counselors, or social workers who shall conduct an evaluation and submit a report with recommendations to the court. Both, the social worker or the aforementioned licensed professional when conducting the evaluation and the court when making a ruling, shall consider the following criteria:

- (1) The mental health of both parents, as well as that of the child or children whose custody is to be awarded.
- (2) The level of responsibility or moral integrity shown by each parent and if there has been a history of domestic abuse between the components of the family unit.
- (3) The capability of each parent to satisfy the emotional, financial, and moral needs of the minor, both present and future.
- (4) The background of each parent with respect to their children before the divorce, dissolution, or separation of an unmarried couple, as well as thereafter.
- (5) The specific needs of each of the minors whose custody is in dispute.
- (6) The interrelation of each minor with his/her parents, siblings, and other family members.
- (7) The fact that the decision is not the result of recklessness or coercion.
- (8) Whether the parents have the capability, will, and resolve to assume the responsibility of raising their children jointly.
- (9) The real reasons and objectives for which the parents have requested joint legal and physical custody.
- (10) If the profession, occupation, or trade of the parents shall prevent the agreement from being carried out effectively.
- (11) If the location and distance between both parents’ homes would affect the education of the minor.
- (12) The existing communication between the parents and their capability to communicate directly or using alternative mechanisms.
- (13) **Analyze the existence of parental alienation or any other reasons that may lead a child to reject a relationship with one parent.**

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Parental alienation means when one parent undermines the relationship between the child and the other parent by using different tactics for the purpose of transforming or indoctrinating the child's conscience in order to denigrate, prevent, obstruct, or destroy the child's bond with the other parent; and the child has thoughts or displays feelings of resistance toward the other parent, shows a negative attitude toward alienated parent or him or herself, thus affecting the bond between the child and the alienated parent. All of the actions described in this subsection must occur repeatedly so as to constitute a pattern and not be based on isolated incidents. Parental alienation may be proven, without limitations, as follows:

- (a) Not passing telephone calls to the children or attempting to control the content of such calls.
- (b) Scheduling activities for the child on the other parent's time or being intrusive and disrupting the other parent's time with the children.
- (c) Intercepting the letters, messages, or packages sent to the children.
- (d) Derogating or insulting the other parent in front of the children.
- (e) Withholding from the other parent information about the children's school, family, or social events or other activities.
- (f) Derogating the other parent's new spouse.
- (g) Interfering with the other parent's visitation rights.
- (h) Making important non-emergency decisions about the children without the other parent's input.
- (i) Changing (or attempting to change) the children's first or last names.
- (j) Refusing to allow the other parent access to the children's school or medical records.
- (k) Taking a vacation without the children and leaving them with another person although the other parent is available and willing to take them.
- (l) Refusing the clothes or gifts that the other parent has purchased them.
- (m) Threatening the children with punishment if they call, write, or otherwise contact the other parent.