





1 Best interest of the child- core statutory factors (Family Code § 3011)

Factors	What the Court considers	Statute
 Health, safety, and welfare of the child	The primary consideration. Includes the child’s physical safety, emotional well-being, and need for stability and continuity in a safe environment.	Fam. Code § 3011(a)(1)
 History of abuse	Any history of abuse by one parent against: <ul style="list-style-type: none"> • The child • The other parent • A cohabitant or spouse Includes consideration of domestic violence findings.	Fam. Code § 3011(a)(2)
 Nature and amount of contact with both parents	The court considers the nature and amount of contact the child has had with each parent and each parent’s willingness and ability to facilitate a relationship with the other parent. Courts favor frequent and continuing contact with both parents, unless it would be detrimental to the child’s best interest.	Fam. Code § 3011(a)(3); § 3020
 Substance abuse	The habitual or continual use of alcohol, illegal drugs, or prescribed controlled substances (if abused) by a parent and the impact on the child.	Fam. Code § 3011(a)(4)

2 Additional statutory considerations



Domestic violence presumption

Fam. Code § 3044

If a parent has committed domestic violence within the past 5 years, there is a rebuttable presumption that awarding custody to that parent is NOT in the child’s best interest.



Public policy-frequent and continuing contact

Fam. Code § 3020

California public policy favors frequent and continuing contact with both parents.

This is the policy of the state, except where contact would not be in the child’s best interest.



Child’s wishes

Fam. Code § 3042

If the child is of sufficient age and capacity (generally 14 or older), the court must consider the child’s preference, unless the court determines that doing so would not be in the child’s best interest.



Order of preference

Fam. Code § 3040

Custody should be awarded in the following order of preference:

1. Both parents jointly
2. One parent
3. Third parties (if necessary)



Other relevant factors

Fam. Code § 3042

The court may consider any other factor it deems relevant to the best interest of the child.

3

Practical observation (what courts often focus on)



Stability and continuity in the child's life are heavily emphasized.



Credibility of each parent matters significantly.



Documentation of parenting involvement, communication, and cooperation is critical.



Any interference with the other parent's custodial time can negatively impact a parent's case.



FCS (Family Court Services) recommendations carry substantial weight with courts.



Key takeaway

California courts make custody decisions based on the best interest of the child, with the child's health, safety, and welfare as the primary concern. The court must consider the statutory factors in Fam. Code § 3011 and all applicable statutory considerations to determine the custody arrangement that best serves the child.