

1 HB612  
2 111424-1  
3 By Representatives McMillan and Newton (C)  
4 RFD: Judiciary  
5 First Read: 23-FEB-10

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8 SYNOPSIS: Under existing law, upon the granting of a  
9 divorce or a petition of a noncustodial parent, the  
10 court may award custody of the children of the  
11 marriage to either parent based upon the best  
12 interests of the child.

13 This bill would specify that a child who has  
14 reached his or her 16th birthday may designate the  
15 parent with whom the child would live, unless the  
16 court determines that the choice is not in the best  
17 interests of the child.

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19 A BILL  
20 TO BE ENTITLED  
21 AN ACT

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23 Relating to the awarding of the custody of a child;  
24 providing for a presumption concerning the testimony of a  
25 child who is 16 years of age or older regarding the parent  
26 with whom the child wishes to live.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. A child who has reached his or her 16th  
2 birthday, upon the granting of a divorce or the petition of  
3 the noncustodial parent, may designate to the court the parent  
4 with whom he or she wishes to live. The testimony of the child  
5 creates a presumption that the selection of the child is in  
6 the best interest of the child. The presumption may be  
7 overcome based upon clear and convincing evidence presented by  
8 the other party that the best interests of the child would not  
9 be served by awarding custody to the designated parent.

10                   Section 2. All laws or parts of laws which conflict  
11 with this act are repealed.

12                   Section 3. This act shall become effective on the  
13 first day of the third month following its passage and  
14 approval by the Governor, or its otherwise becoming law.