

SHARED CUSTODY

2011 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill requires a court to order joint legal and physical custody during the pendency of a separation or divorce.

Highlighted Provisions:

This bill:

- ▶ requires a court during the pendency of a separation or divorce action to:
 - order joint legal and physical custody to the parties as long as there has been no abuse, neglect or domestic violence involving the children;
 - appoint an intermediary if one spouse has a protective order against the other; and
 - provide written findings if it determines that joint custody is not in the best interest of the children.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-3, as last amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **30-3-3** is amended to read:

30-3-3. Award of costs, attorney and witness fees -- Temporary alimony, child support and custody.

(1) In any action filed under Title 30, Chapter 3, Divorce, Chapter 4, Separate Maintenance, or Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, and in any action to establish an order of custody, parent-time, child support, alimony, or division of property in a

33 domestic case, the court may order a party to pay the costs, attorney fees, and witness fees,
34 including expert witness fees, of the other party to enable the other party to prosecute or defend
35 the action. The order may include provision for costs of the action.

36 (2) In any action to enforce an order of custody, parent-time, child support, alimony, or
37 division of property in a domestic case, the court may award costs and attorney fees upon
38 determining that the party substantially prevailed upon the claim or defense. The court, in its
39 discretion, may award no fees or limited fees against a party if the court finds the party is
40 impecunious or enters in the record the reason for not awarding fees.

41 (3) In any action listed in Subsection (1), the court may order a party to provide money,
42 during the pendency of the action, for the separate support and maintenance of the other party
43 and of any children in the custody of the other party.

44 (4) During the pendency of any action listed in Subsection (1) the court shall, absent
45 abuse, neglect or domestic violence involving the children, order that the parents shall have
46 joint legal and physical custody of the children.

47 (a) If one spouse has obtained a protective order against the other spouse, the court
48 shall appoint an intermediary agreed upon by both parties to facilitate parent-time and custody
49 issues.

50 (b) If the court determines that joint legal and physical custody of the children is not in
51 the best interests of the children, it shall make written findings detailing its reasons.

52 ~~[(4)]~~ (5) Orders entered under this section prior to entry of the final order or judgment
53 may be amended during the course of the action or in the final order or judgment.