LEGISLATIVE GENERAL COUNSEL
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1 **CHILD CUSTODY PROCEEDINGS**
2 2012 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: Luz Robles**
5 House Sponsor: Ryan D. Wilcox
6

7 **LONG TITLE**
8 **General Description:**
9 This bill reduces the age from 16 to 14 for children to express their opinion in custody
10 cases.
11 **Highlighted Provisions:**
12 This bill:
13 ▸ reduces the age from 16 to 14 for children who wish to express their opinion during
14 a child custody proceeding regarding which parent they would prefer to reside with.
15 **Money Appropriated in this Bill:**
16 None
17 **Other Special Clauses:**
18 None
19 **Utah Code Sections Affected:**
20 AMENDS:
21 **30-3-10**, as last amended by Laws of Utah 2010, Chapter 237
22

23 *Be it enacted by the Legislature of the state of Utah:*
24 Section 1. Section **30-3-10** is amended to read:
25 **30-3-10. Custody of children in case of separation or divorce -- Custody**
26 **consideration.**
27 (1) If a husband and wife having minor children are separated, or their marriage is

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28 declared void or dissolved, the court shall make an order for the future care and custody of the
29 minor children as it considers appropriate.
30 (a) In determining any form of custody, the court shall consider the best interests of the
31 child and, among other factors the court finds relevant, the following:
32 (i) the past conduct and demonstrated moral standards of each of the parties;
33 (ii) which parent is most likely to act in the best interest of the child, including
34 allowing the child frequent and continuing contact with the noncustodial parent;
35 (iii) the extent of bonding between the parent and child, meaning the depth, quality,
36 and nature of the relationship between a parent and child; and
37 (iv) those factors outlined in Section 30-3-10.2.
38 (b) The court shall, in every case, consider joint custody but may award any form of
39 custody which is determined to be in the best interest of the child.
40 (c) The children may not be required by either party to testify unless the trier of fact
41 determines that extenuating circumstances exist that would necessitate the testimony of the
42 children be heard and there is no other reasonable method to present their testimony.
43 (d) The court may inquire of the children and take into consideration the children's
44 desires regarding future custody or parent-time schedules, but the expressed desires are not
45 controlling and the court may determine the children's custody or parent-time otherwise. The
46 desires of a child [~~16~~] 14 years of age or older shall be given added weight, but is not the single
47 controlling factor.
48 (e) If interviews with the children are conducted by the court pursuant to Subsection
49 (1)(d), they shall be conducted by the judge in camera. The prior consent of the parties may be
50 obtained but is not necessary if the court finds that an interview with the children is the only
51 method to ascertain the child's desires regarding custody.
52 (2) In awarding custody, the court shall consider, among other factors the court finds
53 relevant, which parent is most likely to act in the best interests of the child, including allowing
54 the child frequent and continuing contact with the noncustodial parent as the court finds
55 appropriate.
56 (3) If the court finds that one parent does not desire custody of the child, the court shall
57 take that evidence into consideration in determining whether to award custody to the other
58 parent.

59 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a
60 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining
61 whether a substantial change has occurred for the purpose of modifying an award of custody.
62 (b) If a court takes a parent's disability into account in awarding custody or determining
63 whether a substantial change has occurred for the purpose of modifying an award of custody,
64 the parent with a disability may rebut any evidence, presumption, or inference arising from the
65 disability by showing that:
66 (i) the disability does not significantly or substantially inhibit the parent's ability to
67 provide for the physical and emotional needs of the child at issue; or
68 (ii) the parent with a disability has sufficient human, monetary, or other resources
69 available to supplement the parent's ability to provide for the physical and emotional needs of
70 the child at issue.
71 (c) Nothing in this section may be construed to apply to adoption proceedings under
72 Title 78B, Chapter 6, Part 1, Utah Adoption Act.
73 (5) This section establishes neither a preference nor a presumption for or against joint
74 legal custody, joint physical custody or sole custody, but allows the court and the family the
75 widest discretion to choose a parenting plan that is in the best interest of the child.

Legislative Review Note
as of 11-21-11 9:10 AM

Office of Legislative Research and General Counsel