

Superseded 5/12/2015

30-3-34 Best interests -- Rebuttable presumption.

- (1) If the parties are unable to agree on a parent-time schedule, the court may establish a parent-time schedule consistent with the best interests of the child.
- (2) The advisory guidelines as provided in Section 30-3-33 and the parent-time schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be presumed to be in the best interests of the child. The parent-time schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled unless a parent can establish otherwise by a preponderance of the evidence that more or less parent-time should be awarded based upon any of the following criteria:
 - (a) parent-time would endanger the child's physical health or significantly impair the child's emotional development;
 - (b) the distance between the residency of the child and the noncustodial parent;
 - (c) a substantiated or unfounded allegation of child abuse has been made;
 - (d) the lack of demonstrated parenting skills without safeguards to ensure the child's well-being during parent-time;
 - (e) the financial inability of the noncustodial parent to provide adequate food and shelter for the child during periods of parent-time;
 - (f) the preference of the child if the court determines the child to be of sufficient maturity;
 - (g) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or an adult corrections facility;
 - (h) shared interests between the child and the noncustodial parent;
 - (i) the involvement or lack of involvement of the noncustodial parent in the school, community, religious, or other related activities of the child;
 - (j) the availability of the noncustodial parent to care for the child when the custodial parent is unavailable to do so because of work or other circumstances;
 - (k) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-time;
 - (l) the minimal duration of and lack of significant bonding in the parents' relationship prior to the conception of the child;
 - (m) the parent-time schedule of siblings;
 - (n) the lack of reasonable alternatives to the needs of a nursing child; and
 - (o) any other criteria the court determines relevant to the best interests of the child.
- (3) The court shall enter the reasons underlying its order for parent-time that:
 - (a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or
 - (b) provides more or less parent-time than a parent-time schedule provided in Section 30-3-35 or 30-3-35.5.
- (4) Once the parent-time schedule has been established, the parties may not alter the schedule except by mutual consent of the parties or a court order.