



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

29 Section 1. Section **30-3-10** is amended to read:

30 **30-3-10. Custody of children in case of separation or divorce -- Custody**  
 31 **consideration.**

32 (1) If a husband and wife having minor children are separated, or their marriage is  
 33 declared void or dissolved, the court shall make an order for the future care and custody of the  
 34 minor children as it considers appropriate.

35 (a) In determining any form of custody, including a change in custody, the court shall  
 36 consider the best interests of the child without preference for either the mother or father solely  
 37 because of the biological sex of the parent and, among other factors the court finds relevant, the  
 38 following:

39 (i) the past conduct and demonstrated moral standards of each of the parties;

40 (ii) which parent is most likely to act in the best interest of the child, including  
 41 allowing the child frequent and continuing contact with the noncustodial parent;

42 (iii) the extent of bonding between the parent and child, meaning the depth, quality,  
 43 and nature of the relationship between a parent and child; [~~and~~]

44 (iv) whether the parent has ~~§~~→ **intentionally** ←~~§~~ exposed the child to pornography or  
 44a material harmful to a

45 minor, as defined in Section [76-10-1201](#); and

46 [~~(iv)~~] (v) those factors outlined in Section [30-3-10.2](#).

47 (b) There shall be a rebuttable presumption that joint legal custody, as defined in  
 48 Section [30-3-10.1](#), is in the best interest of the child, except in cases where there is:

49 (i) domestic violence in the home or in the presence of the child;

50 (ii) special physical or mental needs of a parent or child, making joint legal custody  
 51 unreasonable;

52 (iii) physical distance between the residences of the parents, making joint decision  
 53 making impractical in certain circumstances; or

54 (iv) any other factor the court considers relevant including those listed in this section  
 55 and Section [30-3-10.2](#).

56 (c) The person who desires joint legal custody shall file a proposed parenting plan in  
 57 accordance with Sections [30-3-10.8](#) and [30-3-10.9](#). A presumption for joint legal custody may  
 58 be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of

121 sentence is of such length that the child will be deprived of a normal home for more than one  
122 year; [or]

123 (f) a history of violent behavior[-]; or

124 (g) whether the parent has ~~§~~ intentionally ~~←~~§ exposed the child to pornography or  
124a material harmful to a  
125 minor, as defined in Section 76-10-1201.

126 (3) A parent who, legitimately practicing the parent's religious beliefs, does not provide  
127 specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

128 (4) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or  
129 unfit because of a health care decision made for a child by the child's parent unless the state or  
130 other party to the proceeding shows, by clear and convincing evidence, that the health care  
131 decision is not reasonable and informed.

132 (b) Nothing in Subsection (4)(a) may prohibit a parent from exercising the right to  
133 obtain a second health care opinion.

134 (5) If a child has been placed in the custody of the division and the parent or parents  
135 fail to comply substantially with the terms and conditions of a plan within six months after the  
136 date on which the child was placed or the plan was commenced, whichever occurs later, that  
137 failure to comply is evidence of failure of parental adjustment.

138 (6) The following circumstances constitute prima facie evidence of unfitness:

139 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any  
140 child, due to known or substantiated abuse or neglect by the parent or parents;

141 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to  
142 indicate the unfitness of the parent to provide adequate care to the extent necessary for the  
143 child's physical, mental, or emotional health and development;

144 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement  
145 of the child;

146 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to  
147 commit murder or manslaughter of a child or child abuse homicide; or

148 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent  
149 of the child, without legal justification.