

HB0303S01 compared with HB0303

~~{Omitted text}~~ shows text that was in HB0303 but was omitted in HB0303S01

inserted text shows text that was not in HB0303 but was inserted into HB0303S01

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1

Family Court Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul A. Cutler

Senate Sponsor: Michael K. McKell

2

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LONG TITLE

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General Description:

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This bill addresses family law proceedings.

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Highlighted Provisions:

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This bill:

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▸ defines terms;

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▸ addresses factors for a court to consider when deciding whether to award costs, attorney fees, and witness fees in a family law proceeding;

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▸ provides a process for ordering mental health treatment in a child custody proceeding;

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▸ provides that a court may consider evidence of coercive control when making a child custody or parent-time decision;

14

▸ creates a new part addressing a child custody evaluation; and

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▸ makes technical and conforming changes.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **81-1-203** , as renumbered and amended by Laws of Utah 2024, Chapter 366

23 **81-9-101** , as last amended by Laws of Utah 2025, Chapter 48

24 **81-9-104** , as enacted by Laws of Utah 2024, Chapter 453

25 **81-9-204** , as last amended by Laws of Utah 2025, Chapter 426

26 **81-9-206** , as renumbered and amended by Laws of Utah 2024, Chapter 366

27 ENACTS:

28 **81-9-501** , Utah Code Annotated 1953

29 **81-9-502** , Utah Code Annotated 1953

30 **81-9-503** , Utah Code Annotated 1953

31 **81-9-504** , Utah Code Annotated 1953

32

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

34 Section 1. Section **81-1-203** is amended to read:

35 **81-1-203. Award of costs and attorney and witness fees -- Temporary support and maintenance.**

37 (1)

(a) In an action filed under Chapter 4, Dissolution of Marriage, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, or in an action to establish an order of custody, parent-time, child support, alimony, or the division of property in a domestic case, the court may order a party to pay the costs, attorney fees, and witness fees, including expert witness fees, of the other party to enable the other party to prosecute or defend the action.

43 (b) The order under Subsection (1)(a) may include a provision for costs of the action.

44 (c) A court ~~{ shall make }~~ may grant an order under Subsection (1)(a) ~~{ based on evidence of }~~ if the court finds that:

45 (i) ~~the { financial need of the }~~ party requesting the costs and fees lacks the financial resources to pay the costs and fees;

46 (ii) ~~the nonrequesting { party's ability }~~ party has the financial resources to pay the costs and fees; ~~{ and }~~

48 (iii) the costs and fees are necessary for prosecuting or defending the action; and

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- 47 (iii){(iv)} the {~~reasonableness~~} amount of the {~~requested~~} costs and fees are reasonable.
- 48 (d)
- (i) A court may not find that a party {has} ~~lacks the~~ financial {need} resources to pay the costs and fees under Subsection (1)(c)(i) if the party chooses:
- 50 (A) not to earn an income despite being able and available to earn an income; or
- 51 (B) to earn significantly less income than the individual is able to earn considering the individual's physical capabilities, education, training, and experience.
- 53 (ii) Subsection (1)(d)(i) does not apply if an individual:
- 54 (A) is actively seeking a source of income consistent with the individual's physical capabilities, education, training, and experience;
- 56 (B) does not earn an income or earns significantly less income than the individual is capable of earning to care for a child or vulnerable adult, as that term is defined in Section 76-5-111; or
- 59 (C) is between income-earning periods in seasonal or project-based employment that is consistent with the individual's physical capabilities, education, training, and experience.
- 62 (2) In an action to enforce an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may award costs and attorney fees upon determining that the party substantially prevailed upon the claim or defense.
- 65 (3) The court, in the court's discretion, may award no fees or limited fees against a party if the court finds the party is indigent or enters in the record the reason for not awarding fees.
- 68 (4) In an action described in Subsection (1), the court may order a party to provide money, during the pendency of the action, for the separate support and maintenance of the other party and of a minor child in the custody of the other party.
- 71 (5) The court may amend an order entered in accordance with this section before the entry of the final order or judgment or in the final order or judgment.
- 75 Section 2. Section **81-9-101** is amended to read:
- 76 **81-9-101. Definitions for chapter.**
- As used in this chapter:
- 76 (1) "Abuse" means the same as that term is defined in Section 80-1-102.
- 77 (2)
- (a) "Coercive control" means an individual's pattern of behavior that, intentionally or in effect, unreasonably interferes with another individual's ability to make or act on independent decisions.

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- 80 (b) "Coercive control" includes a pattern of:
- 81 (i) isolating another individual from friends, relatives, or sources of support;
- 82 (ii) depriving another individual of basic necessities;
- 83 (iii) controlling, regulating, or excessively monitoring another individual's movements,
communications, daily behavior, finances, economic resources, or access to services;
- 86 (iv) threatening to harm or kill another individual {or} , a relative of the individual, or a household
animal that is owned or kept by the individual;
- 90 (v) threatening self-harm;
- 87 (v){(vi)} threatening to publish information with the intent to harass or intimidate another individual;
- 89 (vi){(vii)} damaging property or household goods; {and} or
- 90 (vii){(viii)} compelling another individual by force, threat of force, or intimidation to:
- 91 (A) engage in conduct from which the other individual has a right to abstain; or
- 92 (B) abstain from conduct in which the other individual has a right to engage.
- 93 [(2)] (3)
- (a) "Custodial responsibility" means all powers and duties relating to caretaking authority and decision-making authority for a minor child.
- 95 (b) "Custodial responsibility" includes physical custody, legal custody, parenting time, right to access, parent-time, and authority to grant limited contact with a minor child.
- 97 [(3)] (4) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 98 [(4)] (5) "Gender identity" means the same as that term is defined in Section 34A-5-102.
- 103 (6) "Household animal" means the same as that term is defined in Section 78B-7-102.
- 99 [(5)] (6){(7)} "Joint legal custody" means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified.
- 101 [(6)] (7){(8)} "Joint physical custody" means the minor child stays with each parent overnight for more than 30% of the year and both parents contribute to the expenses of the minor child in addition to paying child support.
- 104 [(7)] (8){(9)}
- (a) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the minor child.
- 107 (b) "Parenting functions" include:
- 108 (i) maintaining a loving, stable, consistent, and nurturing relationship with the minor child;

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- 110 (ii) attending to the daily needs of the minor child, such as feeding, clothing, physical care, grooming,
supervision, health care, day care, and engaging in other activities which are appropriate to the
developmental level of the minor child and that are within the social and economic circumstances of
the particular family;
- 114 (iii) attending to adequate education for the minor child, including remedial or other education essential
to the best interest of the minor child;
- 116 (iv) assisting the minor child in developing and maintaining appropriate interpersonal relationships;
- 118 (v) exercising appropriate judgment regarding the minor child's welfare, consistent with the minor
child's developmental level and family social and economic circumstances; and
- 121 (vi) providing for the financial support of the minor child.
- 122 ~~[(8)]~~ ~~(9)~~ (10)
- (a) "Parenting plan" means a plan for parenting a minor child.
- 123 (b) "Parenting plan" includes the allocation of parenting functions that are incorporated in any final
decree or decree of modification including an action for dissolution of marriage, annulment, legal
separation, or paternity.
- 126 ~~[(9)]~~ ~~(10)~~ (11) "Protective order" means:
- 127 (a) a civil protective order, as that term is defined in Section 78B-7-102;
- 128 (b) an ex parte civil protective order, as that term is defined in Section 78B-7-102; or
- 129 (c) a foreign protection order, as that term is defined in Section 78B-7-302.
- 130 ~~[(10)]~~ ~~(11)~~ (12) "Psychological maltreatment" means a repeated pattern or extreme incident of
caretaker behavior that:
- 132 (a) intentionally thwarts a minor child's basic psychological needs, including physical and
psychological safety, cognitive stimulation, and respect;
- 134 (b) conveys that a minor child is worthless, defective, or expendable; and
- 135 (c) may terrorize a minor child.
- 136 ~~[(11)]~~ ~~(12)~~ (13) "[]Service member" means a member of a uniformed service.
- 137 ~~[(12)]~~ ~~(13)~~ (14) "Sexual abuse" means the same as that term is defined in Section 80-1-102.
- 138 ~~[(13)]~~ ~~(14)~~ (15) "Supervised parent-time" means parent-time that requires the noncustodial parent to
be accompanied during parent-time by an individual approved by the court.
- 140 ~~[(14)]~~ ~~(15)~~ (16) "Surrogate care" means care by any individual other than the parent of the minor
child.

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142 [(15)] (16){(17)} "Uniformed service" means:

143 (a) active and reserve components of the United States Armed Forces;

144 (b) the United States Merchant Marine;

145 (c) the commissioned corps of the United States Public Health Service;

146 (d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United
States; or

148 (e) the National Guard of a state.

149 [(16)] (17){(18)} "Uninterrupted time" means parent-time exercised by one parent without interruption
at any time by the presence of the other parent.

151 [(17)] (18){(19)} "Virtual parent-time" means parent-time facilitated by tools such as telephone,
email, instant messaging, video conferencing, and other wired or wireless technologies over
the [~~Internet~~] internet or other communication media, to supplement in-person visits between a
noncustodial parent and a minor child or between a minor child and the custodial parent when the
minor child is staying with the noncustodial parent.

161 Section 3. Section **81-9-104** is amended to read:

162 **81-9-104. Expert evidence -- Violence or abuse findings -- Child relationship and
reunification.**

159 (1) As used in this section:

160 (a)

(i) "Child custody proceeding" means a civil proceeding between the parents of a minor child that
involves the care or custody of the minor child, including proceedings involving:

163 (A) divorce;

164 (B) separation;

165 (C) parent-time;

166 (D) paternity;

167 (E) child support; or

168 (F) legal or physical custody of the minor child.

169 (ii) "Child custody proceeding" does not include:

170 (A) a child protective, abuse, or neglect proceeding;

171 (B) a juvenile justice proceeding; or

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- (C) a child placement proceeding in which a state, local, or tribal government, a designee of such a government, or any contracted child welfare agency or child protective services agency of such a government is a party to the proceeding.
- 175 (b) "Forensic" means professional activities undertaken pursuant to a court order or for use in litigation, including the evaluation or treatment of a parent, minor child, or other individual who is involved in a child custody proceeding.
- 178 (c) "Reunification treatment" means a treatment or therapy aimed at reuniting or reestablishing a relationship between a minor child and an estranged or rejected parent or other family member of the minor child.
- 181 (2) In a child custody proceeding, if a parent is alleged to have committed domestic violence or abuse, including sexual abuse:
- 183 (a) the court may admit expert evidence from a court-appointed or outside professional relating to alleged domestic violence or abuse only if the professional possesses demonstrated expertise and adequate experience in working with victims of domestic violence or abuse, including sexual abuse, that is not solely of a forensic nature; and
- 187 (b) in making a finding regarding an allegation of domestic violence or abuse, including sexual abuse, the court shall consider evidence of past domestic violence, sexual violence, or abuse committed by the accused parent, including:
- 190 (i) any past or current protective order against the accused parent; or
- 191 (ii) any charge, arrest, or conviction of the accused parent for domestic violence, sexual violence, or abuse.
- 193 (3) Subsection (2) does not preclude the court from:
- 194 (a) admitting expert evidence, subject to rules of evidence, from a court-appointed or outside professional relating to issues other than alleged domestic violence or abuse; or
- 197 (b) admitting evidence, subject to rules of evidence, that is discovered or otherwise becomes available through treatment or therapy after the court enters an order of custody or parent-time.
- 200 (4) As part of a child custody proceeding, a court may not, solely [~~in order~~] to improve a deficient relationship between a parent and a minor child, including in the context of reunification treatment:
- 203 (a) remove the minor child from a parent or litigating party:
- 204 (i) who is competent and not physically or sexually abusive; and
- 205 (ii) with whom the minor child is bonded; or

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- 206 (b) restrict reasonable contact between the minor child and a parent or litigating party:
207 (i) who is competent and not physically or sexually abusive; and
208 (ii) with whom the minor child is bonded.
- 209 (5) As part of a child custody proceeding where the court has reasonable cause to believe that there is
domestic violence, child abuse, or an ongoing risk to the child:
- 211 (a) a court may not order a reunification treatment or program unless there is generally accepted proof:
213 (i) of the physical and psychological safety, effectiveness, and therapeutic value of the reunification
treatment; and
215 (ii) that the reunification treatment is not associated with causing harm to a child;
- 216 (b) a court may not order a reunification treatment that is predicated on cutting off a minor child from a
parent:
- 218 (i) who is competent and not physically or sexually abusive; and
219 (ii) with whom the minor child is bonded;
- 220 (c) any order to remediate the resistance of a minor child to have contact with a violent or abusive
parent shall primarily address the behavior of that parent or the contributions of that parent to the
resistance of the minor child; and
- 223 (d) any order to a parent who meets the criteria in Subsections (5)(b)(i) and (ii), and that requires the
parent to take steps to potentially improve the minor child's relationship with a violent or abusive
parent, shall:
- 226 (i) prioritize the minor child's physical and psychological safety and needs; and
227 (ii) be narrowly tailored to address specific behavior.
- 228 (6) Subject to Subsection (4), Subsection (5) does not preclude the court from ordering mental health
treatment by a licensed mental health professional that is generally accepted by and meets the
standards of practice for mental health professions if:
- 231 (a) the court does not have reasonable cause to believe that there is domestic violence, child abuse, or
an ongoing risk to the child; and
233 (b) the treatment does not pose a risk to the child or parent.
- 234 (7)
- (a) Except as provided in Subsection (7)(b), the parents shall, by mutual agreement, select a licensed
mental health professional to provide mental health treatment if the court orders mental health
treatment that includes treatment of a minor child.

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- 237 (b) If the parents cannot agree on a licensed mental health professional to provide mental health
treatment ordered by the court:
- 239 (i) each parent shall submit to the court:
- 240 (A) a list of three licensed mental health professionals the parent recommends to provide the mental
health treatment; ~~{and}~~
- 242 (B) a brief statement explaining each mental health professional's qualifications to provide the mental
health treatment; and
- 249 (C) a brief statement verifying that, to the best of the parent's knowledge, the mental health professional
does not have a conflict of interest with either parent or counsel for either parent; and
- 244 (ii) the court shall select a licensed mental health professional from the lists to provide the mental health
treatment.
- 246 (c) If a court is required to select a licensed mental health professional as described in Subsection (7)
(b), the court shall:
- 248 (i) consider the financial ability of each parent required to participate in or pay for the mental health
treatment;
- 250 (ii) order mental health treatment with an in-network provider if coverage is available through an in-
network provider under a health insurance plan of the minor child required to participate in mental
health treatment; and
- 253 (iii) to the extent practicable, select a provider located near the minor child ordered to participate in
mental health treatment, or near the parent primarily responsible for transporting the minor child to
mental health treatment.
- 264 (8)
- 256 (8){(a)} When ordering mental health treatment that includes treatment of a minor child{, the court may
not} :
- 265 (i) the court may not require:
- 258 (a){(A)} ~~{require}~~ the mental health professional ordered to provide the mental health treatment to
~~{have awareness of or affiliation}~~ be affiliated with ~~{any}~~ a specific professional organization
~~{other than what is necessary to maintain the state licensure required to provide the mental health~~
~~treatment}~~ ; or
- 262 (b){(B)} ~~{require}~~ a minor child to miss school during regular school hours to attend mental health
treatment, unless the court determines no reasonable alternative exists~~{:}~~ ; and

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271 (ii) the court may require the mental health professional to have the training necessary to maintain
272 the state licensure required to provide the mental health treatment.

264 (9)

(a) A mental health professional who provides mental health treatment to a minor child involved in
a child custody proceeding may not serve in any other professional capacity in the child custody
proceeding if doing so creates, or appears to create, a conflict of interest.

268 (b) Subsection (9)(a) applies regardless of whether the mental health treatment was ordered by the court
or obtained without a court order.

280 Section 4. Section **81-9-204** is amended to read:

281 **81-9-204. Custody and parent-time of a minor child -- Custody factors -- Preferences.**

273 (1) In a proceeding between parents in which the custody and parent-time of a minor child is at issue,
the court shall consider the best interests of the minor child in determining any form of custody and
parent-time.

276 (2) The court shall determine whether an order for custody or parent-time is in the best interests of the
minor child by a preponderance of the evidence.

278 (3) In determining any form of custody and parent-time under Subsection (1), the court shall consider:

280 (a) for each parent, and in accordance with Section 81-9-104, evidence of domestic violence, physical
abuse, or sexual abuse involving the minor child, the parent, or a household member of the parent;

283 (b) whether the parent has intentionally exposed the minor child to:

284 (i) pornography; or

285 (ii) material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-5c-101;
and

287 (c) whether custody and parent-time would endanger the minor child's health or physical or
psychological safety.

289 (4) In determining the form of custody and parent-time that is in the best interests of the minor child,
the court may consider, among other factors the court finds relevant, the following for each parent:

292 (a) evidence of coercive control;

293 [~~(a)~~] (b) evidence of psychological maltreatment;

294 [~~(b)~~] (c) the parent's demonstrated understanding of, responsiveness to, and ability to meet the
developmental needs of the minor child, including the minor child's:

296 (i) physical needs;

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- 297 (ii) emotional needs;
- 298 (iii) educational needs;
- 299 (iv) medical needs; and
- 300 (v) any special needs;
- 301 ~~[(e)]~~ (d) the parent's capacity and willingness to function as a parent, including:
- 302 (i) parenting skills;
- 303 (ii) co-parenting skills, including:
- 304 (A) ability to appropriately communicate with the other parent;
- 305 (B) ability to encourage the sharing of love and affection; and
- 306 (C) willingness to allow frequent and continuous contact between the minor child and the other parent, except that, if the court determines that the parent is acting to protect the minor child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and
- 310 (iii) ability to provide personal care rather than surrogate care;
- 311 ~~[(d)]~~ (e) the past conduct and demonstrated moral character of the parent as described in Subsection (9);
- 313 ~~[(e)]~~ (f) the emotional stability of the parent;
- 314 ~~[(f)]~~ (g) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;
- 316 ~~[(g)]~~ (h) the parent's reason for having relinquished custody or parent-time in the past;
- 317 ~~[(h)]~~ (i) duration and depth of desire for custody or parent-time;
- 318 ~~[(i)]~~ (j) the parent's religious compatibility with the minor child;
- 319 ~~[(j)]~~ (k) the parent's financial responsibility;
- 320 ~~[(k)]~~ (l) the child's interaction and relationship with step-parents, extended family members~~[-{f} of]~~ , or other individuals who may significantly affect the minor child's best interests;
- 323 ~~[(l)]~~ (m) who has been the primary caretaker of the minor child;
- 324 ~~[(m)]~~ (n) previous parenting arrangements in which the minor child has been happy and well-adjusted in the home, school, and community;
- 326 ~~[(n)]~~ (o) the relative benefit of keeping siblings together;
- 327 ~~[(o)]~~ (p) the stated wishes and concerns of the minor child, taking into consideration the minor child's cognitive ability and emotional maturity;
- 329 ~~[(p)]~~ (q) the relative strength of the minor child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the minor child; and

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- 332 [~~(q)~~] (r) any other factor the court finds relevant.
- 333 (5)
- (a) A minor child may not be required by either party to testify unless the trier of fact determines that
extenuating circumstances exist that would necessitate the testimony of the minor child be heard and
there is no other reasonable method to present the minor child's testimony.
- 337 (b)
- (i) The court may inquire and take into consideration the minor child's desires regarding future custody
or parent-time schedules, but the expressed desires are not controlling and the court may determine
the minor child's custody or parent-time otherwise.
- 341 (ii) The desires of a minor child who is 14 years old or older shall be given added weight, but is not the
single controlling factor.
- 343 (c)
- (i) If an interview with a minor child is conducted by the court in accordance with Subsection (5)(b), the
interview shall be conducted by the court in camera.
- 345 (ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an
interview with a minor child is the only method to ascertain the minor child's desires regarding
custody.
- 348 (6)
- (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a
disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial
change has occurred for the purpose of modifying an award of custody.
- 352 (b) The court may not consider the disability of a parent as a factor in awarding custody or modifying
an award of custody based on a determination of a substantial change in circumstances, unless the
court makes specific findings that:
- 355 (i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and
emotional needs of the minor child at issue; and
- 357 (ii) the parent with a disability lacks sufficient human, monetary, or other resources available to
supplement the parent's ability to provide for the physical and emotional needs of the minor child at
issue.
- 360 (c) Nothing in this section may be construed to apply to adoption proceedings under Chapter 13,
Adoption.

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- 362 (7) This section does not establish:
- 363 (a) a preference for either parent solely because of the gender of the parent; or
- 364 (b) a preference for or against joint physical custody or sole physical custody, but allows the court and
the family the widest discretion to choose a parenting plan that is in the best interest of the minor
child.
- 367 (8) When an issue before the court involves custodial responsibility in the event of a deployment of a
parent who is a service member and the service member has not yet been notified of deployment, the
court shall resolve the issue based on the standards in Sections 81-10-306 through 81-10-309.
- 371 (9) In considering the past conduct and demonstrated moral standards of each party under Subsection
[~~(4)(d)~~] (4)(e) or any other factor a court finds relevant, the court may not:
- 373 (a)
- (i) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a
cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title
4, Chapter 41a, Cannabis Production Establishments and Pharmacies, Title 26B, Chapter 4, Part
2, Cannabinoid Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently
than the court would consider or treat the lawful possession or use of any prescribed controlled
substance; or
- 380 (ii) discriminate against a parent because of the parent's status as a:
- 381 (A) cannabis production establishment agent, as that term is defined in Section 4-41a-102;
- 383 (B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;
- 384 (C) medical cannabis courier agent, as that term is defined in Section [~~26B-4-201~~] 4-41a-102; or
- 386 (D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research
and Medical Cannabis; or
- 388 (b) discriminate against a parent based upon the parent's agreement or disagreement with a minor child
of the couple's:
- 390 (i) assertion that the minor child's gender identity is different from the minor child's biological sex;
- 392 (ii) practice of having or expressing a different gender identity than the minor child's biological sex; or
- 394 (iii) sexual orientation.
- 395 (10)
- (a) The court shall consider evidence of domestic violence if evidence of domestic violence is
presented.

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- 397 (b) The court shall consider as primary, the safety and well-being of the minor child and the parent who
experiences domestic violence.
- 399 (c) A court shall consider an order issued by a court in accordance with Title 78B, Chapter 7, Part 6,
Cohabitant Abuse Protective Orders, as evidence of real harm or substantiated potential harm to the
minor child.
- 402 (d) If a parent relocates because of an act of domestic violence or family violence by the other parent,
the court shall make specific findings and orders with regards to the application of Section 81-9-209.
- 405 (11) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to
the minor child:
- 407 (a) it is in the best interest of the minor child to have frequent, meaningful, and continuing access to
each parent following separation or divorce;
- 409 (b) each parent is entitled to and responsible for frequent, meaningful, and continuing access with the
parent's minor child consistent with the minor child's best interests; and
- 412 (c) it is in the best interest of the minor child to have both parents actively involved in parenting the
minor child.
- 414 (12) Notwithstanding any other provision of this chapter, the court may not grant custody or parent-
time of a minor child to a parent convicted of a sexual offense, as defined in Section 77-37-2, that
resulted in the conception of the minor child unless:
- 417 (a) the nonconvicted biological parent, or the legal guardian of the minor child, consents to custody or
parent-time and the court determines it is in the best interest of the minor child to award custody or
parent-time to the convicted parent; or
- 420 (b) after the date of the conviction, the convicted parent and the nonconvicted parent cohabit and
establish a mutual custodial environment for the minor child.
- 422 (13) A denial of custody or parent-time under Subsection (12) does not:
- 423 (a) terminate the parental rights of the parent denied parent-time or custody; or
- 424 (b) affect the obligation of the convicted parent to financially support the minor child.
- 435 Section 5. Section **81-9-206** is amended to read:
- 436 **81-9-206. Determination of parent-time schedule -- Parent-time factors.**
- 427 (1) If the parties are unable to agree on a parent-time schedule, the court may:
- 428 (a) establish a parent-time schedule; or
- 429 (b) order a parent-time schedule described in Part 3, Parent-time Schedules.

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- 430 (2) There is a presumption that the advisory guidelines described in Section 81-9-202 and the parent-
time schedules described in Part 3, Parent-time Schedules, are the minimum parent-time to which
the noncustodial parent and the minor child are entitled.
- 433 (3) In accordance with Section 81-9-104, when ordering a parent-time schedule a court shall consider:
- 435 (a) evidence of domestic violence, physical abuse, or sexual abuse involving the minor child, a parent,
or a household member of the parent; and
- 437 (b) whether parent-time would endanger the minor child's health or physical or psychological safety.
- 439 (4) A court may consider the following when ordering a parent-time schedule:
- 440 (a) evidence of coercive control;
- 441 [~~a~~] (b) evidence of psychological maltreatment;
- 442 [~~b~~] (c) the distance between the residency of the minor child and the noncustodial parent;
- 444 [~~e~~] (d) the lack of demonstrated parenting skills without safeguards to ensure the minor child's well-
being during parent-time;
- 446 [~~d~~] (e) the financial inability of the noncustodial parent to provide adequate food and shelter for the
minor child during periods of parent-time;
- 448 [~~e~~] (f) the preference of the minor child if the court determines the minor child is of sufficient
maturity;
- 450 [~~f~~] (g) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or
an adult corrections facility;
- 452 [~~g~~] (h) shared interests between the minor child and the noncustodial parent;
- 453 [~~h~~] (i) the involvement or lack of involvement of the noncustodial parent in the school, community,
religious, or other related activities of the minor child;
- 455 [~~i~~] (j) the availability of the noncustodial parent to care for the minor child when the custodial parent
is unavailable to do so because of work or other circumstances;
- 457 [~~j~~] (k) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-
time;
- 459 [~~k~~] (l) the minimal duration of and lack of significant bonding in the parents' relationship before the
conception of the minor child;
- 461 [~~l~~] (m) the parent-time schedule of siblings;
- 462 [~~m~~] (n) the lack of reasonable alternatives to the needs of a nursing minor child; and
- 463 [~~m~~] (o) any other criteria the court determines relevant to the best interests of the minor child.

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- 465 (5) The court shall enter the reasons underlying the court's order for parent-time that:
466 (a) incorporates a parent-time schedule described in Section 81-9-302 or 81-9-304; or
467 (b) provides more or less parent-time than a parent-time schedule described in Section 81-9-302 or
81-9-304.
- 469 (6) A court may not order a parent-time schedule unless the court determines by a preponderance of the
evidence that the parent-time schedule is in the best interest of the minor child.
- 472 (7) Once the parent-time schedule has been established, the parties may not alter the parent-time
schedule except by mutual consent of the parties or a court order.
- 474 (8)
- (a) If the court orders parent-time and a protective order or stalking injunction is still in place, the court
shall consider whether to order the parents to conduct parent-time pick-up and transfer through a
third party.
- 477 (b) The parent who is the stated victim in the protective order or stalking injunction may submit to the
court, and the court shall consider, the name of a person considered suitable to act as the third party.
- 480 (c) If the court orders the parents to conduct parent-time through a third party, the parenting plan shall
specify the time, day, place, manner, and the third party to be used to implement the exchange.
- 483 (9) If there is a protective order, stalking injunction, or the court finds that a parent has committed
domestic violence, the court shall:
- 485 (a) consider the impact of domestic violence in awarding parent-time; and
486 (b) make specific findings regarding the award of parent-time.
- 487 (10) Upon a specific finding by the court of the need for peace officer enforcement, the court may
include a provision in an order for parent-time that authorizes a peace officer to enforce the order for
parent-time.
- 490 (11) When parent-time has not taken place for an extended period of time and the minor child lacks
an appropriate bond with the noncustodial parent, both parents shall consider the possible adverse
effects upon the minor child and gradually reintroduce an appropriate parent-time plan for the
noncustodial parent.

504 Section 6. Section 6 is enacted to read:

506 **81-9-501. Definitions for part.**

5. Custody Evaluation

As used in this part:

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498 (1) "Custody evaluation" means a process in which a custody evaluator gathers and reports to a court
information that a court would find relevant in making a decision regarding custody or parent-time
that is in a minor child's best interest.

501 (2) "Custody evaluator" means an individual who meets the qualifications described in Subsection
81-9-502(1).

503 (3) "Party" means the petitioner or respondent, or a petitioner or respondent's attorney, in an action for
separation, divorce, or custody of a minor child.

515 Section 7. Section 7 is enacted to read:

516 **81-9-502. Custody evaluator qualifications -- Roster of custody evaluators.**

507 (1)

(a) To be a custody evaluator, an individual shall:

508 (i) be licensed by the Division of Professional Licensing as a:

509 (A) clinical social worker under Title 58, Chapter 60, Part 2, Social Worker Licensing Act;

511 (B) psychologist under Title 58, Chapter 61, Psychologist Licensing Act;

512 (C) physician under Title 58, Chapter 67, Part 3, Licensing, and is board trained in psychiatry;

514 (D) marriage and family therapist under Title 58, Chapter 60, Part 3, Marriage and Family Therapist
Licensing Act; or

516 (E) clinical mental health counselor under Title 58, Chapter 60, Part 4, Clinical Mental Health
Counselor Licensing Act; and

518 (ii) subject to Subsection (1)(b), have completed at least 18 hours of education or training on:

520 (A) the psychological and developmental needs of children, including needs related to decisions about
child custody and parent-time;

522 (B) family dynamics, including parent-child relationships, blended families, and extended family
relationships; and

524 (C) the effects of separation, divorce, domestic violence, child sexual or physical abuse, emotional
abuse or neglect, substance abuse, and interparental conflict on the psychological and developmental
needs of children and adults.

527 (b) An individual shall complete the 18 hours of education or training described in Subsection (1)(a)(ii)
within two years before the later of:

529 (i) the day on which the individual received a license described in Subsection (1)(a)(i); or

531 (ii) the day on which the individual renewed a license described in Subsection (1)(a)(i).

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- 533 (2)
- (a) The Administrative Office of the Courts shall maintain a roster of custody evaluators.
- 535 (b) The roster of custody evaluators shall include the name, business address, telephone number, email address, custody evaluation fees, and professional license expiration date of each custody evaluator.
- 538 (c) To be included on the roster of custody evaluators, the Administrative Office of the Courts may require a custody evaluator to submit documentation:
- 540 (i) proving the individual meets the qualifications described in Subsection (1); and
- 541 (ii) providing the information described in Subsection (2)(b).
- 542 (d) The Administrative Office of the Courts shall:
- 543 (i) make the roster of custody evaluators available to a court and parties for use in selecting a custody evaluator; and
- 545 (ii) remove from the roster of custody evaluators any individual who fails to comply with this section.
- 557 Section 8. Section 8 is enacted to read:
- 558 **81-9-503. Custody evaluation order -- Appointment of custody evaluator -- Removal of a custody evaluator.**
- 550 (1) A court may order a custody evaluation during a divorce, separation, or custody proceeding if:
- 552 (a)
- (i) a party requests a custody evaluation; or
- 553 (ii) the court makes specific findings that extraordinary circumstances exist that warrant a custody evaluation; and
- 555 (b) the court finds that the parties have the ability to pay for the custody evaluation.
- 556 (2)
- (a) Except as provided in Subsection (2)(b) **and subject to Subsection (3)**, a court shall appoint a custody evaluator agreed upon by both parties to perform a custody evaluation described in Subsection (1).
- 559 (b) If the parties cannot agree on a custody evaluator to perform a custody evaluation:
- 560 (i) each party shall exchange the names of three custody evaluators that the party recommends to provide the custody evaluation;
- 562 ~~{(ii) {the parties shall submit to the court:}}~~
- 563 (A){(ii)} **the parties shall submit to the court** a joint list of all proposed custody evaluators; and
- 564 (B){(iii)} if a party ~~{opposes}~~ **objects to** any of the ~~{other party's proposed}~~ custody evaluators ~~{, a~~ **on the list described in Subsection (2)(b)(ii), the party shall submit to the court a brief** written

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statement {of} explaining the reasons for the {opposition} objection, including any potential conflicts of interest; and

566 (iii){(iv)} the court shall appoint a custody evaluator from the list described in Subsection {(2)(b)(ii)(A)}
} (2)(b)(ii) after considering any statements described in Subsection {(2)(b)(ii)(B)} (2)(b)(iii).

568 (c) A party has the right to a reasonable opportunity to review a proposed custody evaluator before the court appoints the custody evaluator to perform a custody evaluation.

583 (3) If, based on allegations of domestic violence or abuse, a court reasonably anticipates that a custody evaluator may be required to testify or offer an opinion regarding domestic violence or abuse, the court shall require that each custody evaluator agreed upon or proposed under Subsection (2) possess the demonstrated expertise and adequate experience described in Subsection 81-9-104(2)(a).

571 (3){(4)} An order described in Subsection (1) shall:

572 (a) identify the appointed custody evaluator;

573 (b) identify specific custody factors described in Sections 81-9-204 and 81-9-205 to be addressed in the custody evaluation;

575 (c) require the parties to comply with requests made by the custody evaluator;

576 (d) restrict disclosure of the custody evaluator's findings, recommendations, and privileged information, except in the proceeding in which the custody evaluation is ordered or in other proceedings in which the court determines disclosure is necessary;

579 (e) assign payment responsibility for the custody evaluation; and

580 (f) specify the dates on which the custody evaluation will begin and end.

581 (4){(5)} A party has the right to request the court to remove a custody evaluator for good cause, including:

583 (a) {demonstrated} bias, prejudice, or lack of impartiality toward a party;

584 (b) a conflict of interest;

585 (c) failure to comply with this part, rules of the court, or professional standards;

586 (d) failure to complete the custody evaluation in a timely manner; {and} or

587 (e) professional misconduct or unethical behavior.

605 (6)

588 (5){(a)} A {court may not give presumptive weight to a} custody evaluator's findings in making a custody or parent-time decision are advisory only.

607 (b) There is no presumption in favor of the custody evaluator's findings.

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608 Section 9. Section 9 is enacted to read:

609 **81-9-504. Custody evaluator responsibilities -- Communication between a custody evaluator**
and parties.

593 (1) A custody evaluator shall:

594 (a) ~~remain {neutral and} impartial;~~

595 (b) disclose to the court and each party any conflicts of interest the custody evaluator has with either
party; and

597 (c) immediately notify the Administrative Office of the Courts of any changes in licensure status.

599 (2) A custody evaluator may not act as an advocate for either party.

600 (3) If a custody evaluator is assigned to a proceeding involving domestic violence, sexual abuse,
substance abuse, or mental illness, and the custody evaluator lacks specialized training on the issue,
the custody evaluator shall:

603 (a) consult with an individual with specialized training on the issue;

604 (b) assess, in the custody evaluation, any potential danger to a party or minor child arising from the
issue; and

606 (c) include, in the custody evaluation, the name of the individual with whom the custody evaluator
consulted and the results of the consultation.

608 (4) If a custody evaluator assigned to a proceeding has conducted fewer than three custody evaluations,
the custody evaluator shall consult with another custody evaluator who can review, instruct, and
provide feedback during the custody evaluation process.

611 ~~{(5) }~~

(a) ~~{(5) }~~ When a court appoints a custody evaluator, {there shall be no communication between} a
party and a custody evaluator may not communicate with each other without providing notice of the
communication to the other party, except to the extent reasonably necessary to conduct the custody
evaluation ordered by the court.

614 ~~{(b) {Nothing in Subsection (5)(a) prohibits a custody evaluator from communicating with a party~~
~~without participation from the other party for the purpose of conducting the custody evaluation~~
~~ordered by the court.}}~~

633 Section 10. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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