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Family Court Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul A. Cutler

Senate Sponsor: Michael K. McKell

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LONG TITLE**General Description:**

5 This bill addresses family law proceedings.

Highlighted Provisions:

7 This bill:

8 ▶ defines terms;

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

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

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

14 ▶ creates a new part addressing a child custody evaluation; and

15 ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

17 None

Other Special Clauses:

19 None

Utah Code Sections Affected:**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

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 195332

*Be it enacted by the Legislature of the state of Utah:*33 Section 1. Section **81-1-203** is amended to read:34 **81-1-203 . Award of costs and attorney and witness fees -- Temporary support**
35 **and maintenance.**36 (1)(a) In an action filed under Chapter 4, Dissolution of Marriage, Title 78B, Chapter 7,
37 Part 6, Cohabitant Abuse Protective Orders, or in an action to establish an order of
38 custody, parent-time, child support, alimony, or the division of property in a domestic
39 case, the court may order a party to pay the costs, attorney fees, and witness fees,
40 including expert witness fees, of the other party to enable the other party to prosecute
41 or defend the action.

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

43 (c) A court shall make an order under Subsection (1)(a) based on evidence of:44 (i) the financial need of the party requesting the costs and fees;
45 (ii) the nonrequesting party's ability to pay the costs and fees; and
46 (iii) the reasonableness of the requested costs and fees.47 (d)(i) A court may not find that a party has financial need under Subsection (1)(c)(i)48 if the party chooses:49 (A) not to earn an income despite being able and available to earn an income; or
50 (B) to earn significantly less income than the individual is able to earn considering
51 the individual's physical capabilities, education, training, and experience.52 (ii) Subsection (1)(d)(i) does not apply if an individual:53 (A) is actively seeking a source of income consistent with the individual's physical
54 capabilities, education, training, and experience;
55 (B) does not earn an income or earns significantly less income than the individual
56 is capable of earning to care for a child or vulnerable adult, as that term is
57 defined in Section 76-5-111; or
58 (C) is between income-earning periods in seasonal or project-based employment
59 that is consistent with the individual's physical capabilities, education, training,
60 and experience.61 (2) In an action to enforce an order of custody, parent-time, child support, alimony, or
62 division of property in a domestic case, the court may award costs and attorney fees
63 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
66 the court finds the party is indigent or enters in the record the reason for not awarding
67 fees.

68 (4) In an action described in Subsection (1), the court may order a party to provide money,
69 during the pendency of the action, for the separate support and maintenance of the other
70 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
72 of the final order or judgment or in the final order or judgment.

73 Section 2. Section **81-9-101** is amended to read:

74 **81-9-101 . Definitions for chapter.**

75 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
78 in effect, unreasonably interferes with another individual's ability to make or act on
79 independent decisions.

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
84 movements, communications, daily behavior, finances, economic resources, or
85 access to services;

86 (iv) threatening to harm or kill another individual or a relative of the individual;
87 (v) threatening to publish information with the intent to harass or intimidate another
88 individual;

89 (vi) damaging property or household goods; and
90 (vii) 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
94 authority and decision-making authority for a minor child.

95 (b) "Custodial responsibility" includes physical custody, legal custody, parenting time,
96 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.

99 [§5] (6) "Joint legal custody" means the sharing of the rights, privileges, duties, and powers
100 of a parent by both parents, where specified.

101 [§6] (7) "Joint physical custody" means the minor child stays with each parent overnight for
102 more than 30% of the year and both parents contribute to the expenses of the minor child
103 in addition to paying child support.

104 [§7] (8)(a) "Parenting functions" means those aspects of the parent-child relationship in
105 which the parent makes decisions and performs functions necessary for the care and
106 growth of the minor child.

107 (b) "Parenting functions" include:

108 (i) maintaining a loving, stable, consistent, and nurturing relationship with the minor
109 child;

110 (ii) attending to the daily needs of the minor child, such as feeding, clothing, physical
111 care, grooming, supervision, health care, day care, and engaging in other activities
112 which are appropriate to the developmental level of the minor child and that are
113 within the social and economic circumstances of the particular family;

114 (iii) attending to adequate education for the minor child, including remedial or other
115 education essential to the best interest of the minor child;

116 (iv) assisting the minor child in developing and maintaining appropriate interpersonal
117 relationships;

118 (v) exercising appropriate judgment regarding the minor child's welfare, consistent
119 with the minor child's developmental level and family social and economic
120 circumstances; and

121 (vi) providing for the financial support of the minor child.

122 [§8] (9)(a) "Parenting plan" means a plan for parenting a minor child.

123 (b) "Parenting plan" includes the allocation of parenting functions that are incorporated
124 in any final decree or decree of modification including an action for dissolution of
125 marriage, annulment, legal separation, or paternity.

126 [§9] (10) "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) "Psychological maltreatment" means a repeated pattern or extreme incident of
131 caretaker behavior that:

132 (a) intentionally thwarts a minor child's basic psychological needs, including physical

133 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} "[-]Service member" means a member of a uniformed service.

137 ~~[{12}]~~ {13} "Sexual abuse" means the same as that term is defined in Section 80-1-102.

138 ~~[{13}]~~ {14} "Supervised parent-time" means parent-time that requires the noncustodial parent

139 to be accompanied during parent-time by an individual approved by the court.

140 ~~[{14}]~~ {15} "Surrogate care" means care by any individual other than the parent of the minor

141 child.

142 ~~[{15}]~~ {16} "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

147 the United States; or

148 (e) the National Guard of a state.

149 ~~[{16}]~~ {17} "Uninterrupted time" means parent-time exercised by one parent without

150 interruption at any time by the presence of the other parent.

151 ~~[{17}]~~ {18} "Virtual parent-time" means parent-time facilitated by tools such as telephone,

152 email, instant messaging, video conferencing, and other wired or wireless technologies

153 over the ~~[Internet]~~ internet or other communication media, to supplement in-person visits

154 between a noncustodial parent and a minor child or between a minor child and the

155 custodial parent when the minor child is staying with the noncustodial parent.

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

157 **81-9-104 . Expert evidence -- Violence or abuse findings -- Child relationship and**

158 **reunification.**

159 (1) As used in this section:

160 (a)(i) "Child custody proceeding" means a civil proceeding between the parents of a

161 minor child that involves the care or custody of the minor child, including

162 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
172 (C) a child placement proceeding in which a state, local, or tribal government, a
173 designee of such a government, or any contracted child welfare agency or child
174 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
176 use in litigation, including the evaluation or treatment of a parent, minor child, or
177 other individual who is involved in a child custody proceeding.
178 (c) "Reunification treatment" means a treatment or therapy aimed at reuniting or
179 reestablishing a relationship between a minor child and an estranged or rejected
180 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
182 violence or abuse, including sexual abuse:
183 (a) the court may admit expert evidence from a court-appointed or outside professional
184 relating to alleged domestic violence or abuse only if the professional possesses
185 demonstrated expertise and adequate experience in working with victims of domestic
186 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
188 sexual abuse, the court shall consider evidence of past domestic violence, sexual
189 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,
192 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
195 outside professional relating to issues other than alleged domestic violence or abuse;
196 or
197 (b) admitting evidence, subject to rules of evidence, that is discovered or otherwise
198 becomes available through treatment or therapy after the court enters an order of
199 custody or parent-time.
200 (4) As part of a child custody proceeding, a court may not, solely [in order] to improve a

201 deficient relationship between a parent and a minor child, including in the context of
202 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

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
210 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
212 accepted proof:

213 (i) of the physical and psychological safety, effectiveness, and therapeutic value of
214 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
217 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
221 or abusive parent shall primarily address the behavior of that parent or the
222 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
224 requires the parent to take steps to potentially improve the minor child's relationship
225 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
229 mental health treatment by a licensed mental health professional that is generally
230 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,
232 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,

235 select a licensed mental health professional to provide mental health treatment if the
236 court orders mental health treatment that includes treatment of a minor child.

237 (b) If the parents cannot agree on a licensed mental health professional to provide mental
238 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
241 provide the mental health treatment; and

242 (B) a brief statement explaining each mental health professional's qualifications to
243 provide the mental health treatment; and

244 (ii) the court shall select a licensed mental health professional from the lists to
245 provide the mental health treatment.

246 (c) If a court is required to select a licensed mental health professional as described in
247 Subsection (7)(b), the court shall:

248 (i) consider the financial ability of each parent required to participate in or pay for the
249 mental health treatment;

250 (ii) order mental health treatment with an in-network provider if coverage is available
251 through an in-network provider under a health insurance plan of the minor child
252 required to participate in mental health treatment; and

253 (iii) to the extent practicable, select a provider located near the minor child ordered to
254 participate in mental health treatment, or near the parent primarily responsible for
255 transporting the minor child to mental health treatment.

256 (8) When ordering mental health treatment that includes treatment of a minor child, the
257 court may not:

258 (a) require the mental health professional ordered to provide the mental health treatment
259 to have awareness of or affiliation with any professional organization other than what
260 is necessary to maintain the state licensure required to provide the mental health
261 treatment; or

262 (b) require a minor child to miss school during regular school hours to attend mental
263 health treatment, unless the court determines no reasonable alternative exists.

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

268 (b) Subsection (9)(a) applies regardless of whether the mental health treatment was

269 ordered by the court or obtained without a court order.

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

271 **81-9-204 . Custody and parent-time of a minor child -- Custody factors --**

272 **Preferences.**

273 (1) In a proceeding between parents in which the custody and parent-time of a minor child
274 is at issue, the court shall consider the best interests of the minor child in determining
275 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
277 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
279 shall consider:

280 (a) for each parent, and in accordance with Section 81-9-104, evidence of domestic
281 violence, physical abuse, or sexual abuse involving the minor child, the parent, or a
282 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
286 Section 76-5c-101; and

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

289 (4) In determining the form of custody and parent-time that is in the best interests of the
290 minor child, the court may consider, among other factors the court finds relevant, the
291 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
295 meet the developmental needs of the minor child, including the minor child's:

296 (i) physical needs;

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;

- (ii) co-parenting skills, including:
 - (A) ability to appropriately communicate with the other parent;
 - (B) ability to encourage the sharing of love and affection; and
 - (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
- (iii) ability to provide personal care rather than surrogate care;

] (e) the past conduct and demonstrated moral character of the parent as described in Subsection (9);

] (f) the emotional stability of the parent;

] (g) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

] (h) the parent's reason for having relinquished custody or parent-time in the past;

] (i) duration and depth of desire for custody or parent-time;

] (j) the parent's religious compatibility with the minor child;

] (k) the parent's financial responsibility;

] (l) the child's interaction and relationship with step-parents, extended family members [or] , or other individuals who may significantly affect the minor child's best interests;

] (m) who has been the primary caretaker of the minor child;

] (n) previous parenting arrangements in which the minor child has been happy and well-adjusted in the home, school, and community;

] (o) the relative benefit of keeping siblings together;

] (p) the stated wishes and concerns of the minor child, taking into consideration the minor child's cognitive ability and emotional maturity;

] (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

] (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
334 determines that extenuating circumstances exist that would necessitate the testimony
335 of the minor child be heard and there is no other reasonable method to present the
336 minor child's testimony.

337 (b)(i) The court may inquire and take into consideration the minor child's desires
338 regarding future custody or parent-time schedules, but the expressed desires are
339 not controlling and the court may determine the minor child's custody or
340 parent-time otherwise.

341 (ii) The desires of a minor child who is 14 years old or older shall be given added
342 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
344 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
346 finds that an interview with a minor child is the only method to ascertain the
347 minor child's desires regarding custody.

348 (6)(a) Except as provided in Subsection (6)(b), a court may not discriminate against a
349 parent due to a disability, as defined in Section 57-21-2, in awarding custody or
350 determining whether a substantial change has occurred for the purpose of modifying
351 an award of custody.

352 (b) The court may not consider the disability of a parent as a factor in awarding custody
353 or modifying an award of custody based on a determination of a substantial change in
354 circumstances, unless the court makes specific findings that:

355 (i) the disability significantly or substantially inhibits the parent's ability to provide
356 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
358 available to supplement the parent's ability to provide for the physical and
359 emotional needs of the minor child at issue.

360 (c) Nothing in this section may be construed to apply to adoption proceedings under
361 Chapter 13, Adoption.

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
365 the court and the family the widest discretion to choose a parenting plan that is in the
366 best interest of the minor child.

367 (8) When an issue before the court involves custodial responsibility in the event of a
368 deployment of a parent who is a service member and the service member has not yet
369 been notified of deployment, the court shall resolve the issue based on the standards in
370 Sections 81-10-306 through 81-10-309.

371 (9) In considering the past conduct and demonstrated moral standards of each party under
372 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
374 dosage form, a cannabis product in a medicinal dosage form, or a medical
375 cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production
376 Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid
377 Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently
378 than the court would consider or treat the lawful possession or use of any
379 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
382 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]
385 4-41a-102; or
386 (D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2,
387 Cannabinoid Research and Medical Cannabis; or
388 (b) discriminate against a parent based upon the parent's agreement or disagreement with
389 a minor child of the couple's:
390 (i) assertion that the minor child's gender identity is different from the minor child's
391 biological sex;
392 (ii) practice of having or expressing a different gender identity than the minor child's
393 biological sex; or
394 (iii) sexual orientation.

395 (10)(a) The court shall consider evidence of domestic violence if evidence of domestic
396 violence is presented.
397 (b) The court shall consider as primary, the safety and well-being of the minor child and
398 the parent who experiences domestic violence.
399 (c) A court shall consider an order issued by a court in accordance with Title 78B,
400 Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or
401 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
403 other parent, the court shall make specific findings and orders with regards to the
404 application of Section 81-9-209.

405 (11) Absent a showing by a preponderance of evidence of real harm or substantiated
406 potential harm to the minor child:
407 (a) it is in the best interest of the minor child to have frequent, meaningful, and
408 continuing access to each parent following separation or divorce;
409 (b) each parent is entitled to and responsible for frequent, meaningful, and continuing
410 access with the parent's minor child consistent with the minor child's best interests;
411 and
412 (c) it is in the best interest of the minor child to have both parents actively involved in
413 parenting the minor child.

414 (12) Notwithstanding any other provision of this chapter, the court may not grant custody or
415 parent-time of a minor child to a parent convicted of a sexual offense, as defined in
416 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
418 to custody or parent-time and the court determines it is in the best interest of the
419 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
421 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.

425 Section 5. Section **81-9-206** is amended to read:

426 **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.

430 (2) There is a presumption that the advisory guidelines described in Section 81-9-202 and
431 the parent-time schedules described in Part 3, Parent-time Schedules, are the minimum
432 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
434 shall consider:
435 (a) evidence of domestic violence, physical abuse, or sexual abuse involving the minor
436 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
438 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

443 parent;

444 [(e)] (d) the lack of demonstrated parenting skills without safeguards to ensure the minor

445 child's well-being during parent-time;

446 [(d)] (e) the financial inability of the noncustodial parent to provide adequate food and

447 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

449 sufficient maturity;

450 [(f)] (g) the incarceration of the noncustodial parent in a county jail, secure youth

451 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,

454 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

456 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

458 scheduled parent-time;

459 [(k)] (l) the minimal duration of and lack of significant bonding in the parents'

460 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 [(n)] (o) any other criteria the court determines relevant to the best interests of the minor

464 child.

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

468 81-9-302 or 81-9-304.

469 (6) A court may not order a parent-time schedule unless the court determines by a

470 preponderance of the evidence that the parent-time schedule is in the best interest of the

471 minor child.

472 (7) Once the parent-time schedule has been established, the parties may not alter the

473 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
475 in place, the court shall consider whether to order the parents to conduct parent-time
476 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
478 submit to the court, and the court shall consider, the name of a person considered
479 suitable to act as the third party.

480 (c) If the court orders the parents to conduct parent-time through a third party, the
481 parenting plan shall specify the time, day, place, manner, and the third party to be
482 used to implement the exchange.

483 (9) If there is a protective order, stalking injunction, or the court finds that a parent has
484 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
488 court may include a provision in an order for parent-time that authorizes a peace officer
489 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
491 child lacks an appropriate bond with the noncustodial parent, both parents shall consider
492 the possible adverse effects upon the minor child and gradually reintroduce an
493 appropriate parent-time plan for the noncustodial parent.

494 Section 6. Section **81-9-501** is enacted to read:

495 **Part 5. Custody Evaluation**

496 **81-9-501 . Definitions for part.**

497 As used in this part:

498 (1) "Custody evaluation" means a process in which a custody evaluator gathers and reports
499 to a court information that a court would find relevant in making a decision regarding
500 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
502 Subsection 81-9-502(1).

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

505 Section 7. Section **81-9-502** is enacted to read:

506 **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;

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

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

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

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

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

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

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

517 (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.

518 (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:

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

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

521 (2)(a) The Administrative Office of the Courts shall maintain a roster of custody
evaluators.

522 (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.

523 (c) To be included on the roster of custody evaluators, the Administrative Office of the
Courts may require a custody evaluator to submit documentation:

524 (i) proving the individual meets the qualifications described in Subsection (1); and

(ii) providing the information described in Subsection (2)(b).

(d) The Administrative Office of the Courts shall:

(i) make the roster of custody evaluators available to a court and parties for use in selecting a custody evaluator; and

(ii) remove from the roster of custody evaluators any individual who fails to comply with this section.

Section 8. Section **81-9-503** is enacted to read:

81-9-503 . Custody evaluation order -- Appointment of custody evaluator --

Removal of a custody evaluator.

(1) A court may order a custody evaluation during a divorce, separation, or custody proceeding if:

(a)(i) a party requests a custody evaluation; or

(ii) the court makes specific findings that extraordinary circumstances exist that warrant a custody evaluation; and

(b) the court finds that the parties have the ability to pay for the custody evaluation.

(2)(a) Except as provided in Subsection (2)(b), a court shall appoint a custody evaluator agreed upon by both parties to perform a custody evaluation described in Subsection (1).

(b) If the parties cannot agree on a custody evaluator to perform a custody evaluation:

(i) each party shall exchange the names of three custody evaluators that the party recommends to provide the custody evaluation:

(ii) the parties shall submit to the court:

(A) a joint list of all proposed custody evaluators; and

(B) if a party opposes any of the other party's proposed custody evaluators, a written statement of reasons for the opposition; and

(iii) the court shall appoint a custody evaluator from the list described in Subsection (2)(b)(ii)(A) after considering any statements described in Subsection (2)(b)(ii)(E)

(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.

(3) An order described in Subsection (1) shall:

(a) identify the appointed custody evaluator;

(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
577 privileged information, except in the proceeding in which the custody evaluation is
578 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) A party has the right to request the court to remove a custody evaluator for good cause,
582 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
587 (e) professional misconduct or unethical behavior.

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

590 Section 9. Section **81-9-504** is enacted to read:

591 **81-9-504 . Custody evaluator responsibilities -- Communication between a
592 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
596 with either party; and
597 (c) immediately notify the Administrative Office of the Courts of any changes in
598 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
601 abuse, substance abuse, or mental illness, and the custody evaluator lacks specialized
602 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
605 arising from the issue; and
606 (c) include, in the custody evaluation, the name of the individual with whom the custody
607 evaluator consulted and the results of the consultation.

608 (4) If a custody evaluator assigned to a proceeding has conducted fewer than three custody

609 evaluations, the custody evaluator shall consult with another custody evaluator who can
610 review, instruct, and provide feedback during the custody evaluation process.

611 (5)(a) When a court appoints a custody evaluator, there shall be no communication
612 between a party and a custody evaluator without providing notice of the
613 communication to the other party.

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

617 **Section 10. Effective Date.**

618 This bill takes effect on May 6, 2026.