

Michael K. McKell proposes the following substitute bill:

Family Court Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul A. Cutler

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses family law proceedings.

Highlighted Provisions:

This bill:

- defines terms;
- addresses factors for a court to consider when deciding whether to award costs, attorney fees, and witness fees in a family law proceeding;
- provides a process for ordering mental health treatment in a child custody proceeding;
- provides that a court may consider evidence of coercive control when making a child custody or parent-time decision;
- creates a new part addressing a child custody evaluation; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

81-1-203 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2024,

Chapter 366

81-9-101 (Effective upon governor's approval), as last amended by Laws of Utah 2025,

Chapter 48

81-9-104 (Effective 05/06/26), as enacted by Laws of Utah 2024, Chapter 453

81-9-204 (Effective upon governor's approval), as last amended by Laws of Utah 2025,

Chapter 426

29 **81-9-206 (Effective upon governor's approval)**, as renumbered and amended by Laws of
 30 Utah 2024, Chapter 366

31 ENACTS:

32 **81-9-501 (Effective 05/06/26)**, Utah Code Annotated 1953

33 **81-9-502 (Effective 05/06/26)**, Utah Code Annotated 1953

34 **81-9-503 (Effective 05/06/26)**, Utah Code Annotated 1953

35 **81-9-504 (Effective 05/06/26)**, Utah Code Annotated 1953

36

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

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

39 **81-1-203 (Effective 05/06/26). Award of costs and attorney and witness fees --**
 40 **Temporary support and maintenance.**

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

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

48 (c) A court may grant an order under Subsection (1)(a) if the court finds that:

49 (i) the party requesting the costs and fees lacks the financial resources to pay the
 50 costs and fees;

51 (ii) the nonrequesting party has the financial resources to pay the costs and fees;

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

53 (iv) the amount of the costs and fees are reasonable.

54 (d)(i) A court may not find that a party lacks the financial resources to pay the costs
 55 and fees under Subsection (1)(c)(i) if the party chooses:

56 (A) not to earn an income despite being able and available to earn an income; or

57 (B) to earn significantly less income than the individual is able to earn considering
 58 the individual's physical capabilities, education, training, and experience.

59 (ii) Subsection (1)(d)(i) does not apply if an individual:

60 (A) is actively seeking a source of income consistent with the individual's physical
 61 capabilities, education, training, and experience;

62 (B) does not earn an income or earns significantly less income than the individual

63 is capable of earning to care for a child or vulnerable adult, as that term is
 64 defined in Section 76-5-111; or
 65 (C) is between income-earning periods in seasonal or project-based employment
 66 that is consistent with the individual's physical capabilities, education, training,
 67 and experience.

- 68 (2) In an action to enforce an order of custody, parent-time, child support, alimony, or
 69 division of property in a domestic case, the court may award costs and attorney fees
 70 upon determining that the party substantially prevailed upon the claim or defense.
 71 (3) The court, in the court's discretion, may award no fees or limited fees against a party if
 72 the court finds the party is indigent or enters in the record the reason for not awarding
 73 fees.
 74 (4) In an action described in Subsection (1), the court may order a party to provide money,
 75 during the pendency of the action, for the separate support and maintenance of the other
 76 party and of a minor child in the custody of the other party.
 77 (5) The court may amend an order entered in accordance with this section before the entry
 78 of the final order or judgment or in the final order or judgment.

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

80 **81-9-101 (Effective upon governor's approval). Definitions for chapter.**

81 As used in this chapter:

- 82 (1) "Abuse" means the same as that term is defined in Section 80-1-102.
 83 (2)(a) "Coercive control" means an individual's pattern of behavior that, intentionally or
 84 in effect, unreasonably interferes with another individual's ability to make or act on
 85 independent decisions.
 86 (b) "Coercive control" includes a pattern of:
 87 (i) isolating another individual from friends, relatives, or sources of support;
 88 (ii) depriving another individual of basic necessities;
 89 (iii) controlling, regulating, or excessively monitoring another individual's
 90 movements, communications, daily behavior, or access to services;
 91 (iv) controlling, regulating, excessively monitoring, depriving, or limiting another
 92 individual's finances, access to finances, or economic resources;
 93 (v) threatening to harm or kill another individual, a relative of the individual, or a
 94 household animal that is owned or kept by the individual;
 95 (vi) threatening self-harm if another individual does not comply with the individual's
 96 demands;

- 97 (vii) threatening to publish information with the intent to harass or intimidate another
98 individual;
- 99 (viii) damaging property or household goods; or
- 100 (ix) compelling another individual by force, threat of force, or intimidation to:
101 (A) engage in conduct from which the other individual has a right to abstain; or
102 (B) abstain from conduct in which the other individual has a right to engage.
- 103 (c) "Coercive control" does not include reasonable and appropriate parental conduct
104 undertaken in the care of a minor child.
- 105 [~~2~~] (3)(a) "Custodial responsibility" means all powers and duties relating to caretaking
106 authority and decision-making authority for a minor child.
- 107 (b) "Custodial responsibility" includes physical custody, legal custody, parenting time,
108 right to access, parent-time, and authority to grant limited contact with a minor child.
- 109 [~~3~~] (4) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 110 [~~4~~] (5) "Gender identity" means the same as that term is defined in Section 34A-5-102.
- 111 (6) "Household animal" means the same as that term is defined in Section 78B-7-102.
- 112 [~~5~~] (7) "Joint legal custody" means the sharing of the rights, privileges, duties, and powers
113 of a parent by both parents, where specified.
- 114 [~~6~~] (8) "Joint physical custody" means the minor child stays with each parent overnight for
115 more than 30% of the year and both parents contribute to the expenses of the minor child
116 in addition to paying child support.
- 117 [~~7~~] (9)(a) "Parenting functions" means those aspects of the parent-child relationship in
118 which the parent makes decisions and performs functions necessary for the care and
119 growth of the minor child.
- 120 (b) "Parenting functions" include:
- 121 (i) maintaining a loving, stable, consistent, and nurturing relationship with the minor
122 child;
- 123 (ii) attending to the daily needs of the minor child, such as feeding, clothing, physical
124 care, grooming, supervision, health care, day care, and engaging in other activities
125 which are appropriate to the developmental level of the minor child and that are
126 within the social and economic circumstances of the particular family;
- 127 (iii) attending to adequate education for the minor child, including remedial or other
128 education essential to the best interest of the minor child;
- 129 (iv) assisting the minor child in developing and maintaining appropriate interpersonal
130 relationships;

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

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

135 [~~(8)~~] (10)(a) "Parenting plan" means a plan for parenting a minor child.

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

139 [~~(9)~~] (11) "Protective order" means:

140 (a) a civil protective order, as that term is defined in Section 78B-7-102;

141 (b) an ex parte civil protective order, as that term is defined in Section 78B-7-102; or

142 (c) a foreign protection order, as that term is defined in Section 78B-7-302.

143 [~~(10)~~] (12) "Psychological maltreatment" means a repeated pattern or extreme incident of
144 caretaker behavior that:

145 (a) intentionally thwarts a minor child's basic psychological needs, including physical
146 and psychological safety, cognitive stimulation, and respect;

147 (b) conveys that a minor child is worthless, defective, or expendable; and

148 (c) may terrorize a minor child.

149 [~~(11)~~] (13) "[~~-~~]Service member" means a member of a uniformed service.

150 [~~(12)~~] (14) "Sexual abuse" means the same as that term is defined in Section 80-1-102.

151 [~~(13)~~] (15) "Supervised parent-time" means parent-time that requires the noncustodial parent
152 to be accompanied during parent-time by an individual approved by the court.

153 [~~(14)~~] (16) "Surrogate care" means care by any individual other than the parent of the minor
154 child.

155 [~~(15)~~] (17) "Uniformed service" means:

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

157 (b) the United States Merchant Marine;

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

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

161 (e) the National Guard of a state.

162 [~~(16)~~] (18) "Uninterrupted time" means parent-time exercised by one parent without
163 interruption at any time by the presence of the other parent.

164 [~~(17)~~] (19) "Virtual parent-time" means parent-time facilitated by tools such as telephone,

165 email, instant messaging, video conferencing, and other wired or wireless technologies
166 over the [~~Internet~~] internet or other communication media, to supplement in-person visits
167 between a noncustodial parent and a minor child or between a minor child and the
168 custodial parent when the minor child is staying with the noncustodial parent.

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

170 **81-9-104 (Effective 05/06/26). Expert evidence -- Violence or abuse findings --**
171 **Child relationship and reunification.**

172 (1) As used in this section:

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

176 (A) divorce;

177 (B) separation;

178 (C) parent-time;

179 (D) paternity;

180 (E) child support; or

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

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

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

184 (B) a juvenile justice proceeding; or

185 (C) a child placement proceeding in which a state, local, or tribal government, a
186 designee of such a government, or any contracted child welfare agency or child
187 protective services agency of such a government is a party to the proceeding.

188 (b) "Forensic" means professional activities undertaken [~~pursuant to~~] in accordance with
189 a court order or for use in litigation, including the evaluation or treatment of a parent,
190 minor child, or other individual who is involved in a child custody proceeding.

191 (c) "Reunification treatment" means a treatment or therapy aimed at reuniting or
192 reestablishing a relationship between a minor child and an estranged or rejected
193 parent or other family member of the minor child.

194 (2) In a child custody proceeding, if a parent is alleged to have committed domestic
195 violence or abuse, including sexual abuse:

196 (a) the court may admit expert evidence from a court-appointed or outside professional
197 relating to alleged domestic violence or abuse only if the professional possesses
198 demonstrated expertise and adequate experience in working with victims of domestic

- 199 violence or abuse, including sexual abuse, that is not solely of a forensic nature; and
200 (b) in making a finding regarding an allegation of domestic violence or abuse, including
201 sexual abuse, the court shall consider evidence of past domestic violence, sexual
202 violence, or abuse committed by the accused parent, including:
203 (i) any past or current protective order against the accused parent; or
204 (ii) any charge, arrest, or conviction of the accused parent for domestic violence,
205 sexual violence, or abuse.
- 206 (3) Subsection (2) does not preclude the court from:
207 (a) admitting expert evidence, subject to rules of evidence, from a court-appointed or
208 outside professional relating to issues other than alleged domestic violence or abuse;
209 or
210 (b) admitting evidence, subject to rules of evidence, that is discovered or otherwise
211 becomes available through treatment or therapy after the court enters an order of
212 custody or parent-time.
- 213 (4) As part of a child custody proceeding, a court may not, solely [~~in order~~]to improve a
214 deficient relationship between a parent and a minor child, including in the context of
215 reunification treatment:
216 (a) remove the minor child from a parent or litigating party:
217 (i) who is competent and not physically or sexually abusive; and
218 (ii) with whom the minor child is bonded; or
219 (b) restrict reasonable contact between the minor child and a parent or litigating party:
220 (i) who is competent and not physically or sexually abusive; and
221 (ii) with whom the minor child is bonded.
- 222 (5) As part of a child custody proceeding where the court has reasonable cause to believe
223 that there is domestic violence, child abuse, or an ongoing risk to the child:
224 (a) a court may not order a reunification treatment or program unless there is generally
225 accepted proof:
226 (i) of the physical and psychological safety, effectiveness, and therapeutic value of
227 the reunification treatment; and
228 (ii) that the reunification treatment is not associated with causing harm to a child;
229 (b) a court may not order a reunification treatment that is predicated on cutting off a
230 minor child from a parent:
231 (i) who is competent and not physically or sexually abusive; and
232 (ii) with whom the minor child is bonded;

- 233 (c) any order to remediate the resistance of a minor child to have contact with a violent
234 or abusive parent shall primarily address the behavior of that parent or the
235 contributions of that parent to the resistance of the minor child; and
- 236 (d) any order to a parent who meets the criteria in Subsections (5)(b)(i) and (ii), and that
237 requires the parent to take steps to potentially improve the minor child's relationship
238 with a violent or abusive parent, shall:
- 239 (i) prioritize the minor child's physical and psychological safety and needs; and
240 (ii) be narrowly tailored to address specific behavior.
- 241 (6) Subject to Subsection (4), Subsection (5) does not preclude the court from ordering
242 mental health treatment by a licensed mental health professional that is generally
243 accepted by and meets the standards of practice for mental health professions if:
- 244 (a) the court does not have reasonable cause to believe that there is domestic violence,
245 child abuse, or an ongoing risk to the child; and
- 246 (b) the treatment does not pose a risk to the child or parent.
- 247 (7)(a) Except as provided in Subsection (7)(b), the parents shall, by mutual agreement,
248 select a licensed mental health professional to provide mental health treatment if the
249 court orders mental health treatment that includes treatment of a minor child.
- 250 (b) If the parents cannot agree on a licensed mental health professional to provide mental
251 health treatment ordered by the court:
- 252 (i) each parent shall submit to the court:
- 253 (A) a list of three licensed mental health professionals the parent recommends to
254 provide the mental health treatment;
- 255 (B) a brief statement explaining each mental health professional's qualifications to
256 provide the mental health treatment; and
- 257 (C) a brief statement verifying that, to the best of the parent's knowledge, the
258 mental health professional does not have a conflict of interest with either
259 parent or counsel for either parent; and
- 260 (ii) the court shall select a licensed mental health professional from the lists to
261 provide the mental health treatment.
- 262 (c)(i) When a court is required to select a licensed mental health professional as
263 described in Subsection (7)(b), the court shall:
- 264 (A) consider the financial ability of each parent required to participate in or pay
265 for the mental health treatment;
- 266 (B) order mental health treatment with an in-network provider if coverage is

267 available through an in-network provider under a health insurance plan of the
 268 minor child required to participate in mental health treatment; and
 269 (C) to the extent practicable, select a mental health professional located near the
 270 minor child ordered to participate in mental health treatment, or near the parent
 271 primarily responsible for transporting the minor child to mental health
 272 treatment.

273 (ii) If the court has previously granted one of the parents exclusive or primary
 274 authority to make medical decisions for the minor child, the court shall select a
 275 mental health professional recommended by that parent, unless the court finds
 276 good cause not to give preference to that parent's recommended mental health
 277 professional.

278 (8)(a) When ordering mental health treatment that includes treatment of a minor child:

279 (i) the court may not require:

280 (A) the mental health professional ordered to provide the mental health treatment
 281 to be affiliated with a specific professional organization; or

282 (B) a minor child to miss school during regular school hours to attend mental
 283 health treatment, unless the court determines no reasonable alternative exists;
 284 and

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

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

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

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

295 **81-9-204 (Effective upon governor's approval). Custody and parent-time of a**
 296 **minor child -- Custody factors -- Preferences.**

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

300 (2) The court shall determine whether an order for custody or parent-time is in the best

- 301 interests of the minor child by a preponderance of the evidence.
- 302 (3) In determining any form of custody and parent-time under Subsection (1), the court
303 shall consider:
- 304 (a) for each parent, and in accordance with Section 81-9-104, evidence of domestic
305 violence, physical abuse, or sexual abuse involving the minor child, the parent, or a
306 household member of the parent;
- 307 (b) whether the parent has intentionally exposed the minor child to:
- 308 (i) pornography; or
- 309 (ii) material harmful to minors, as "material" and "harmful to minors" are defined in
310 Section 76-5c-101; and
- 311 (c) whether custody and parent-time would endanger the minor child's health or physical
312 or psychological safety.
- 313 (4) In determining the form of custody and parent-time that is in the best interests of the
314 minor child, the court may consider, among other factors the court finds relevant, the
315 following for each parent:
- 316 (a) evidence of coercive control;
- 317 [~~(a)~~] (b) evidence of psychological maltreatment;
- 318 [~~(b)~~] (c) the parent's demonstrated understanding of, responsiveness to, and ability to
319 meet the developmental needs of the minor child, including the minor child's:
- 320 (i) physical needs;
- 321 (ii) emotional needs;
- 322 (iii) educational needs;
- 323 (iv) medical needs; and
- 324 (v) any special needs;
- 325 [~~(c)~~] (d) the parent's capacity and willingness to function as a parent, including:
- 326 (i) parenting skills;
- 327 (ii) co-parenting skills, including:
- 328 (A) ability to appropriately communicate with the other parent;
- 329 (B) ability to encourage the sharing of love and affection; and
- 330 (C) willingness to allow frequent and continuous contact between the minor child
331 and the other parent, except that, if the court determines that the parent is
332 acting to protect the minor child from domestic violence, neglect, or abuse, the
333 parent's protective actions may be taken into consideration; and
- 334 (iii) ability to provide personal care rather than surrogate care;

- 335 ~~[(d)]~~ (e) the past conduct and demonstrated moral character of the parent as described in
 336 Subsection (9);
- 337 ~~[(e)]~~ (f) the emotional stability of the parent;
- 338 ~~[(f)]~~ (g) the parent's inability to function as a parent because of drug abuse, excessive
 339 drinking, or other causes;
- 340 ~~[(g)]~~ (h) the parent's reason for having relinquished custody or parent-time in the past;
- 341 ~~[(h)]~~ (i) duration and depth of desire for custody or parent-time;
- 342 ~~[(i)]~~ (j) the parent's religious compatibility with the minor child;
- 343 ~~[(j)]~~ (k) the parent's financial responsibility;
- 344 ~~[(k)]~~ (l) the child's interaction and relationship with step-parents, extended family
 345 members~~[-of]~~ , or other individuals who may significantly affect the minor child's best
 346 interests;
- 347 ~~[(l)]~~ (m) who has been the primary caretaker of the minor child;
- 348 ~~[(m)]~~ (n) previous parenting arrangements in which the minor child has been happy and
 349 well-adjusted in the home, school, and community;
- 350 ~~[(n)]~~ (o) the relative benefit of keeping siblings together;
- 351 ~~[(o)]~~ (p) the stated wishes and concerns of the minor child, taking into consideration the
 352 minor child's cognitive ability and emotional maturity;
- 353 ~~[(p)]~~ (q) the relative strength of the minor child's bond with the parent, meaning the
 354 depth, quality, and nature of the relationship between the parent and the minor child;
 355 and
- 356 ~~[(q)]~~ (r) any other factor the court finds relevant.
- 357 (5)(a) A minor child may not be required by either party to testify unless the trier of fact
 358 determines that extenuating circumstances exist that would necessitate the testimony
 359 of the minor child be heard and there is no other reasonable method to present the
 360 minor child's testimony.
- 361 (b)(i) The court may inquire and take into consideration the minor child's desires
 362 regarding future custody or parent-time schedules, but the expressed desires are
 363 not controlling and the court may determine the minor child's custody or
 364 parent-time otherwise.
- 365 (ii) The desires of a minor child who is 14 years old or older shall be given added
 366 weight, but is not the single controlling factor.
- 367 (c)(i) If an interview with a minor child is conducted by the court in accordance with
 368 Subsection (5)(b), the interview shall be conducted by the court in camera.

- 369 (ii) The prior consent of the parties may be obtained but is not necessary if the court
370 finds that an interview with a minor child is the only method to ascertain the
371 minor child's desires regarding custody.
- 372 (6)(a) Except as provided in Subsection (6)(b), a court may not discriminate against a
373 parent due to a disability, as defined in Section 57-21-2, in awarding custody or
374 determining whether a substantial change has occurred for the purpose of modifying
375 an award of custody.
- 376 (b) The court may not consider the disability of a parent as a factor in awarding custody
377 or modifying an award of custody based on a determination of a substantial change in
378 circumstances, unless the court makes specific findings that:
- 379 (i) the disability significantly or substantially inhibits the parent's ability to provide
380 for the physical and emotional needs of the minor child at issue; and
- 381 (ii) the parent with a disability lacks sufficient human, monetary, or other resources
382 available to supplement the parent's ability to provide for the physical and
383 emotional needs of the minor child at issue.
- 384 (c) Nothing in this section may be construed to apply to adoption proceedings under
385 Chapter 13, Adoption.
- 386 (7) This section does not establish:
- 387 (a) a preference for either parent solely because of the gender of the parent; or
- 388 (b) a preference for or against joint physical custody or sole physical custody, but allows
389 the court and the family the widest discretion to choose a parenting plan that is in the
390 best interest of the minor child.
- 391 (8) When an issue before the court involves custodial responsibility in the event of a
392 deployment of a parent who is a service member and the service member has not yet
393 been notified of deployment, the court shall resolve the issue based on the standards in
394 Sections 81-10-306 through 81-10-309.
- 395 (9) In considering the past conduct and demonstrated moral standards of each party under
396 Subsection [~~(4)(d)~~] (4)(e) or any other factor a court finds relevant, the court may not:
- 397 (a)(i) consider or treat a parent's lawful possession or use of cannabis in a medicinal
398 dosage form, a cannabis product in a medicinal dosage form, or a medical
399 cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production
400 Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid
401 Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently
402 than the court would consider or treat the lawful possession or use of any

- 403 prescribed controlled substance; or
- 404 (ii) discriminate against a parent because of the parent's status as a:
- 405 (A) cannabis production establishment agent, as that term is defined in Section
- 406 4-41a-102;
- 407 (B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;
- 408 (C) medical cannabis courier agent, as that term is defined in Section [~~26B-4-201~~]
- 409 4-41a-102; or
- 410 (D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2,
- 411 Cannabinoid Research and Medical Cannabis; or
- 412 (b) discriminate against a parent based upon the parent's agreement or disagreement with
- 413 a minor child of the couple's:
- 414 (i) assertion that the minor child's gender identity is different from the minor child's
- 415 biological sex;
- 416 (ii) practice of having or expressing a different gender identity than the minor child's
- 417 biological sex; or
- 418 (iii) sexual orientation.
- 419 (10)(a) The court shall consider evidence of domestic violence if evidence of domestic
- 420 violence is presented.
- 421 (b) The court shall consider as primary, the safety and well-being of the minor child and
- 422 the parent who experiences domestic violence.
- 423 (c) A court shall consider an order issued by a court in accordance with Title 78B,
- 424 Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or
- 425 substantiated potential harm to the minor child.
- 426 (d) If a parent relocates because of an act of domestic violence or family violence by the
- 427 other parent, the court shall make specific findings and orders with regards to the
- 428 application of Section 81-9-209.
- 429 (11) Absent a showing by a preponderance of evidence of real harm or substantiated
- 430 potential harm to the minor child:
- 431 (a) it is in the best interest of the minor child to have frequent, meaningful, and
- 432 continuing access to each parent following separation or divorce;
- 433 (b) each parent is entitled to and responsible for frequent, meaningful, and continuing
- 434 access with the parent's minor child consistent with the minor child's best interests;
- 435 and
- 436 (c) it is in the best interest of the minor child to have both parents actively involved in

437 parenting the minor child.

438 (12) Notwithstanding any other provision of this chapter, the court may not grant custody or
439 parent-time of a minor child to a parent convicted of a sexual offense, as defined in
440 Section 77-37-2, that resulted in the conception of the minor child unless:

441 (a) the nonconvicted biological parent, or the legal guardian of the minor child, consents
442 to custody or parent-time and the court determines it is in the best interest of the
443 minor child to award custody or parent-time to the convicted parent; or

444 (b) after the date of the conviction, the convicted parent and the nonconvicted parent
445 cohabit and establish a mutual custodial environment for the minor child.

446 (13) A denial of custody or parent-time under Subsection (12) does not:

447 (a) terminate the parental rights of the parent denied parent-time or custody; or

448 (b) affect the obligation of the convicted parent to financially support the minor child.

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

450 **81-9-206 (Effective upon governor's approval). Determination of parent-time**
451 **schedule -- Parent-time factors.**

452 (1) If the parties are unable to agree on a parent-time schedule, the court may:

453 (a) establish a parent-time schedule; or

454 (b) order a parent-time schedule described in Part 3, Parent-time Schedules.

455 (2) There is a presumption that the advisory guidelines described in Section 81-9-202 and
456 the parent-time schedules described in Part 3, Parent-time Schedules, are the minimum
457 parent-time to which the noncustodial parent and the minor child are entitled.

458 (3) In accordance with Section 81-9-104, when ordering a parent-time schedule a court
459 shall consider:

460 (a) evidence of domestic violence, physical abuse, or sexual abuse involving the minor
461 child, a parent, or a household member of the parent; and

462 (b) whether parent-time would endanger the minor child's health or physical or
463 psychological safety.

464 (4) A court may consider the following when ordering a parent-time schedule:

465 (a) evidence of coercive control;

466 [(a)] (b) evidence of psychological maltreatment;

467 [(b)] (c) the distance between the residency of the minor child and the noncustodial
468 parent;

469 [(c)] (d) the lack of demonstrated parenting skills without safeguards to ensure the minor
470 child's well-being during parent-time;

- 471 ~~[(d)]~~ (e) the financial inability of the noncustodial parent to provide adequate food and
472 shelter for the minor child during periods of parent-time;
- 473 ~~[(e)]~~ (f) the preference of the minor child if the court determines the minor child is of
474 sufficient maturity;
- 475 ~~[(f)]~~ (g) the incarceration of the noncustodial parent in a county jail, secure youth
476 corrections facility, or an adult corrections facility;
- 477 ~~[(g)]~~ (h) shared interests between the minor child and the noncustodial parent;
- 478 ~~[(h)]~~ (i) the involvement or lack of involvement of the noncustodial parent in the school,
479 community, religious, or other related activities of the minor child;
- 480 ~~[(i)]~~ (j) the availability of the noncustodial parent to care for the minor child when the
481 custodial parent is unavailable to do so because of work or other circumstances;
- 482 ~~[(j)]~~ (k) a substantial and chronic pattern of missing, canceling, or denying regularly
483 scheduled parent-time;
- 484 ~~[(k)]~~ (l) the minimal duration of and lack of significant bonding in the parents'
485 relationship before the conception of the minor child;
- 486 ~~[(l)]~~ (m) the parent-time schedule of siblings;
- 487 ~~[(m)]~~ (n) the lack of reasonable alternatives to the needs of a nursing minor child; and
- 488 ~~[(n)]~~ (o) any other criteria the court determines relevant to the best interests of the minor
489 child.
- 490 (5) The court shall enter the reasons underlying the court's order for parent-time that:
- 491 (a) incorporates a parent-time schedule described in Section 81-9-302 or 81-9-304; or
- 492 (b) provides more or less parent-time than a parent-time schedule described in Section
493 81-9-302 or 81-9-304.
- 494 (6) A court may not order a parent-time schedule unless the court determines by a
495 preponderance of the evidence that the parent-time schedule is in the best interest of the
496 minor child.
- 497 (7) Once the parent-time schedule has been established, the parties may not alter the
498 parent-time schedule except by mutual consent of the parties or a court order.
- 499 (8)(a) If the court orders parent-time and a protective order or stalking injunction is still
500 in place, the court shall consider whether to order the parents to conduct parent-time
501 pick-up and transfer through a third party.
- 502 (b) The parent who is the stated victim in the protective order or stalking injunction may
503 submit to the court, and the court shall consider, the name of a person considered
504 suitable to act as the third party.

- 505 (c) If the court orders the parents to conduct parent-time through a third party, the
 506 parenting plan shall specify the time, day, place, manner, and the third party to be
 507 used to implement the exchange.
- 508 (9) If there is a protective order, stalking injunction, or the court finds that a parent has
 509 committed domestic violence, the court shall:
- 510 (a) consider the impact of domestic violence in awarding parent-time; and
 511 (b) make specific findings regarding the award of parent-time.
- 512 (10) Upon a specific finding by the court of the need for peace officer enforcement, the
 513 court may include a provision in an order for parent-time that authorizes a peace officer
 514 to enforce the order for parent-time.
- 515 (11) When parent-time has not taken place for an extended period of time and the minor
 516 child lacks an appropriate bond with the noncustodial parent, both parents shall consider
 517 the possible adverse effects upon the minor child and gradually reintroduce an
 518 appropriate parent-time plan for the noncustodial parent.

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

520 **Part 5. Custody Evaluation**

521 **81-9-501 (Effective 05/06/26). Definitions for part.**

522 As used in this part:

- 523 (1) "Custody evaluation" means a process in which a custody evaluator gathers and reports
 524 to a court information that a court would find relevant in making a decision regarding
 525 custody or parent-time that is in a minor child's best interest.
- 526 (2) "Custody evaluator" means an individual who meets the qualifications described in
 527 Subsection 81-9-502(1).
- 528 (3) "Party" means the petitioner or respondent, or a petitioner or respondent's attorney, in an
 529 action for separation, divorce, or custody of a minor child.

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

531 **81-9-502 (Effective 05/06/26). Custody evaluator qualifications -- Roster of**
 532 **custody evaluators.**

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

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

535 (A) clinical social worker under Title 58, Chapter 60, Part 2, Social Worker

536 Licensing Act;

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

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

- 539 psychiatry;
- 540 (D) marriage and family therapist under Title 58, Chapter 60, Part 3, Marriage and
- 541 Family Therapist Licensing Act; or
- 542 (E) clinical mental health counselor under Title 58, Chapter 60, Part 4, Clinical
- 543 Mental Health Counselor Licensing Act; and
- 544 (ii) subject to Subsection (1)(b), have completed at least 18 hours of education or
- 545 training on:
- 546 (A) the psychological and developmental needs of children, including needs
- 547 related to decisions about child custody and parent-time;
- 548 (B) family dynamics, including parent-child relationships, blended families, and
- 549 extended family relationships; and
- 550 (C) the effects of separation, divorce, domestic violence, child sexual or physical
- 551 abuse, emotional abuse or neglect, substance abuse, and interparental conflict
- 552 on the psychological and developmental needs of children and adults.
- 553 (b) An individual shall complete the 18 hours of education or training described in
- 554 Subsection (1)(a)(ii) within two years before the later of:
- 555 (i) the day on which the individual received a license described in Subsection (1)(a)(i);
- 556 or
- 557 (ii) the day on which the individual renewed a license described in Subsection
- 558 (1)(a)(i).
- 559 (2)(a) The Administrative Office of the Courts shall maintain a roster of custody
- 560 evaluators.
- 561 (b) The roster of custody evaluators shall include the name, business address, telephone
- 562 number, email address, custody evaluation fees, and professional license expiration
- 563 date of each custody evaluator.
- 564 (c) To be included on the roster of custody evaluators, the Administrative Office of the
- 565 Courts may require a custody evaluator to submit documentation:
- 566 (i) proving the individual meets the qualifications described in Subsection (1); and
- 567 (ii) providing the information described in Subsection (2)(b).
- 568 (d) The Administrative Office of the Courts shall:
- 569 (i) make the roster of custody evaluators available to a court and parties for use in
- 570 selecting a custody evaluator; and
- 571 (ii) remove from the roster of custody evaluators any individual who fails to comply
- 572 with this section.

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

574 **81-9-503 (Effective 05/06/26). Custody evaluation order -- Appointment of**
575 **custody evaluator -- Removal of a custody evaluator.**

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

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

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

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

582 (2)(a) Except as provided in Subsection (2)(b) and subject to Subsection (3), a court
583 shall appoint a custody evaluator agreed upon by both parties to perform a custody
584 evaluation described in Subsection (1).

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

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

588 (ii) the parties shall submit to the court a joint list of all proposed custody evaluators;
589 and

590 (iii) if a party objects to any of the custody evaluators on the list described in
591 Subsection (2)(b)(ii), the party shall submit to the court a brief written statement
592 explaining the reasons for the objection, including any potential conflicts of
593 interest; and

594 (iv) the court shall appoint a custody evaluator from the list described in Subsection
595 (2)(b)(ii) after considering any statements described in Subsection (2)(b)(iii).

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

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

604 (4) An order described in Subsection (1) shall:

605 (a) identify the appointed custody evaluator;

606 (b) identify specific custody factors described in Sections 81-9-204 and 81-9-205 to be

- 607 addressed in the custody evaluation;
- 608 (c) require the parties to comply with requests made by the custody evaluator;
- 609 (d) restrict disclosure of the custody evaluator's findings, recommendations, and
- 610 privileged information, except in the proceeding in which the custody evaluation is
- 611 ordered or in other proceedings in which the court determines disclosure is necessary;
- 612 (e) assign payment responsibility for the custody evaluation; and
- 613 (f) specify the dates on which the custody evaluation will begin and end.
- 614 (5) A party has the right to request the court to remove a custody evaluator for good cause,
- 615 including:
- 616 (a) bias, prejudice, or lack of impartiality toward a party;
- 617 (b) a conflict of interest;
- 618 (c) failure to comply with this part, rules of the court, or professional standards;
- 619 (d) failure to complete the custody evaluation in a timely manner; or
- 620 (e) professional misconduct or unethical behavior.
- 621 (6)(a) A custody evaluator's findings in making a custody or parent-time decision are
- 622 advisory only.
- 623 (b) There is no presumption in favor of the custody evaluator's findings.
- 624 Section 9. Section **81-9-504** is enacted to read:
- 625 **81-9-504 (Effective 05/06/26). Custody evaluator responsibilities --**
- 626 **Communication between a custody evaluator and parties.**
- 627 (1) A custody evaluator shall:
- 628 (a) remain impartial;
- 629 (b) disclose to the court and each party any conflicts of interest the custody evaluator has
- 630 with either party; and
- 631 (c) immediately notify the Administrative Office of the Courts of any changes in
- 632 licensure status.
- 633 (2) A custody evaluator may not act as an advocate for either party.
- 634 (3) If a custody evaluator is assigned to a proceeding involving domestic violence, sexual
- 635 abuse, substance abuse, or mental illness, and the custody evaluator lacks specialized
- 636 training on the issue, the custody evaluator shall:
- 637 (a) consult with an individual with specialized training on the issue;
- 638 (b) assess, in the custody evaluation, any potential danger to a party or minor child
- 639 arising from the issue; and
- 640 (c) include, in the custody evaluation, the name of the individual with whom the custody

641 evaluator consulted and the results of the consultation.

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

645 (5) When a court appoints a custody evaluator, a party and a custody evaluator may not
646 communicate with each other without providing notice of the communication to the
647 other party, except to the extent reasonably necessary to conduct the custody evaluation
648 ordered by the court.

649 **Section 10. Effective Date.**

650 (1) Except as provided in Subsection (2), this bill takes effect May 6, 2026.

651 (2)(a) The actions affecting sections described in Subsection (2)(b) take effect:

652 (i) except as provided in Subsection (2)(a)(ii), May 6, 2026; or

653 (ii) if approved by two-thirds of all members elected to each house:

654 (A) upon approval by the governor;

655 (B) without the governor's signature, the day following the constitutional time
656 limit of Utah Constitution, Article VII, Section 8; or

657 (C) in the case of a veto, the date of veto override.

658 (b) Subsection (2)(a) applies to the actions affecting the following sections:

659 (i) Section 81-9-101 (Effective upon governor's approval);

660 (ii) Section 81-9-204 (Effective upon governor's approval); and

661 (iii) Section 81-9-206 (Effective upon governor's approval).