

HB272 4th Substitute (4th Substitute incorporates changes requested by the Utah Psychological Association and other child advocates)

OM'S LAW : KEEPING UTAH CHILDREN SAFE

2024 Utah Legislative Session HB 272 : Child Custody Proceedings Amendments

OM'S LAW

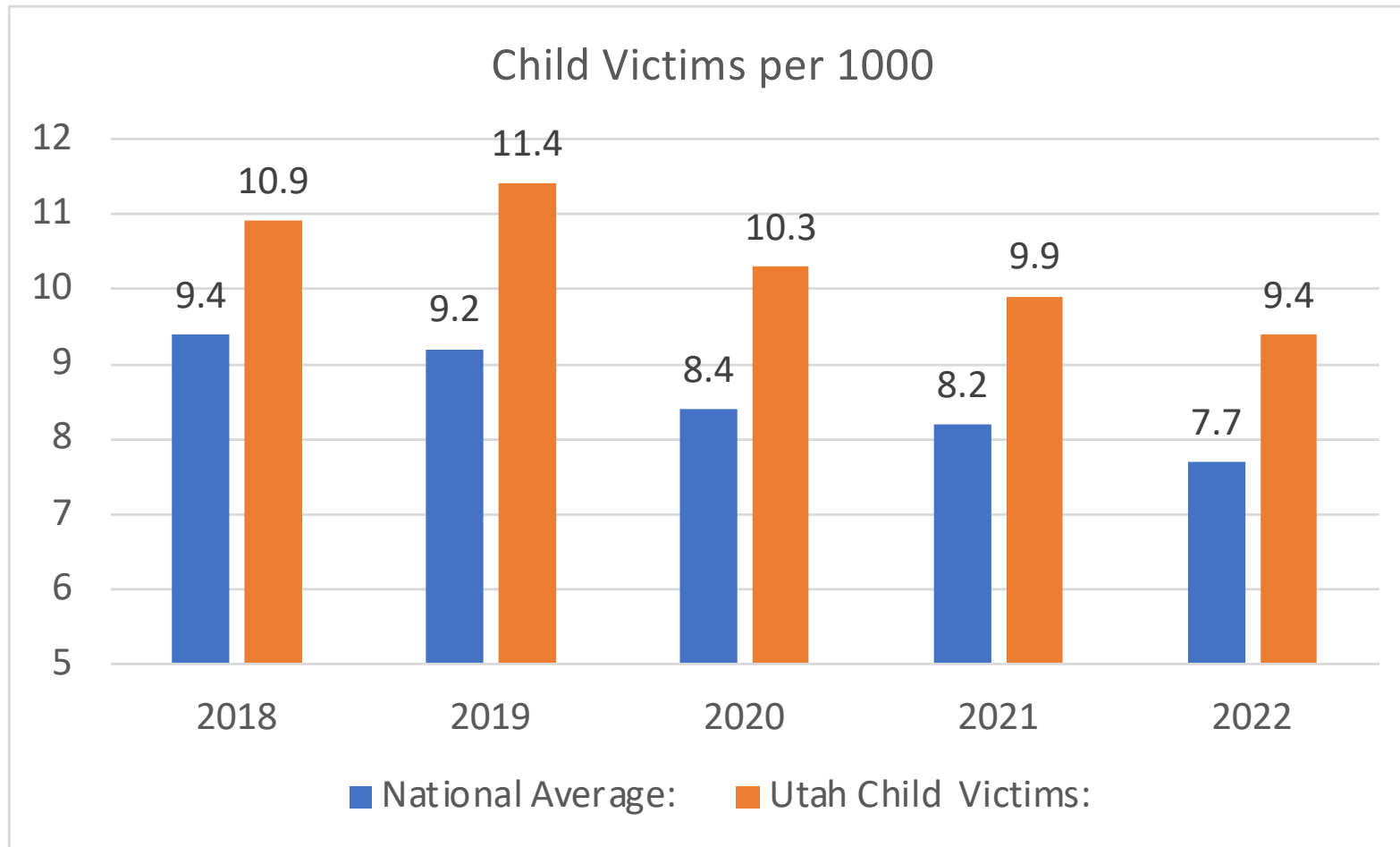
Protecting Utah Children
From Family Violence

HB 272 : Child Custody Proceedings
Amendments (Rep Cutler, Sen McKell)



OM MOSES GANDHI

2022: 8,765 victims of Child Maltreatment in Utah (Reported)



Source: 2022 Report from the Children’s Bureau (Administration for Children and Families) of the U.S. Department of Health and Human Services.



Leah Moses



OM MOSES GANDHI



HB272S4: Key Policy Points

56 In determining any form of custody and parent-time...the court
57 shall consider the best interest of the child

Shall Consider 30-3-10 (2,3)

- evidence of domestic violence, physical abuse, and sexual abuse
- intentional exposure to pornography
- danger to the child's physical health or safety

New

May Consider 30-3-10 (4) items a-p

- psychological maltreatment;
- child's developmental needs (physical, emotional, educational, medical)
- parenting skills, communication skills, past conduct, character, emotional stability, drug & alcohol abuse, financial responsibilities, siblings, other factors, etc

Moved

Redefined from "emotional abuse"



HB272S4: Key Policy Points

Psychological Maltreatment/Abuse

- 215 (7) "Psychological maltreatment" means a repeated pattern or extreme incident of
216 caretaker behavior that:
- 217 (a) intentionally thwarts a child's basic psychological needs, including physical and
218 psychological safety, cognitive stimulation, and respect;
- 219 (b) conveys that a child is worthless, defective, or expendable; and
- 220 (c) may terrorize a child.

Definition from APSAC (American Professional Society on Abuse of Children)



HB272S4:

Supervised Parent Time

311 (2) ~~[A court that]~~ If the court finds evidence of domestic violence, child abuse, or an
312 ongoing risk to a child, and orders supervised parent-time, the court shall give preference to
313 ~~[persons suggested by the parties to supervise, including relatives]~~ supervision by a
314 professional individual or private agency trained in child abuse reporting laws, the
315 developmental needs of a child, and the dynamics of domestic violence, child abuse, sexual
316 abuse, and substance abuse.

317 (3) If a professional individual or private agency described in Subsection (2) is not
318 available, affordable, or practicable under the circumstances, a court shall give preference to
319 supervision by an individual who is:

320 (a) capable and willing to provide physical and psychological safety and security to the
321 child, and to assist in the avoidance and prevention of domestic and family violence; and

322 (b) is trained in child abuse reporting laws, the developmental needs of a child, and the
323 dynamics of domestic violence, child abuse, sexual abuse, and substance abuse.

324 (4) ~~[If the court finds that the persons suggested by the parties are]~~ If an individual
325 described in Subsection (2) or (3) is not available, affordable, or practicable under the
326 circumstances, or if the court does not find evidence of domestic violence, child abuse, or an
327 ongoing risk to a child, a court may order supervised parent-time that is supervised by an
328 individual who is willing to supervise, and [are] is capable of protecting the [children] child
329 from physical or emotional harm, or child abuse, [the court shall authorize the persons to
330 supervise parent-time] and the court shall give preference to individuals suggested by the
331 parties, including relatives.



HB272S4: Key Policy Points

Indefinite Supervised Parent Time

341 (6) Except when the court makes a finding that, due to abuse by or the incapacity of the
342 noncustodial parent, supervised parent-time will be necessary indefinitely to ensure the
343 physical or psychological safety and protection of the child, the court shall, in its order for
344 supervised parent-time, provide specific goals and expectations for the noncustodial parent to
345 accomplish before unsupervised parent-time may be granted. The court shall schedule one or
346 more follow-up hearings to revisit the issue of supervised parent-time.



HB272S4:

Standard of “expert “evidence” for abuse

375 (2) In a child custody proceeding, if a parent is alleged to have committed domestic
376 violence or abuse, including sexual abuse:
377 (a) the court may admit expert evidence from a court-appointed or outside professional
378 relating to alleged domestic violence or abuse only if the professional possesses demonstrated
379 expertise and adequate experience in working with victims of domestic violence or abuse,
380 including sexual abuse, that is not solely of a forensic nature; and
381 (b) in making a finding regarding an allegation of domestic violence or abuse,
382 including sexual abuse, the court shall consider evidence of past domestic violence, sexual
383 violence, or abuse committed by the accused parent, including:
384 (i) any past or current protective order against the accused parent; or
385 (ii) any charge, arrest, or conviction of the accused parent for domestic violence, sexual
386 violence, or abuse.
387 (3) Subsection (2) does not preclude the court from:
388 (a) admitting expert evidence, subject to rules of evidence, from a court-appointed or
389 outside professional relating to issues other than alleged domestic violence or abuse; or
390 (b) admitting evidence, subject to rules of evidence, that is discovered or otherwise
391 becomes available through treatment or therapy after the court enters an order of custody or
392 parent-time.



HB272S4: Key Policy Points

Removing a child from a parent

- 393 (4) As part of a child custody proceeding, a court may not, solely in order to improve a
394 deficient relationship between the other parent and a child:
- 395 (a) remove the child from a parent or litigating party:
- 396 (i) who is competent and not physically or sexually abusive; and
- 397 (ii) with whom the child is bonded; or
- 398 (b) restrict reasonable contact between the child and a parent or litigating party:
- 399 (i) who is competent and not physically or sexually abusive; and
- 400 (ii) with whom the child is bonded.



HB272S4: Key Policy Points

Reunification Treatment

401 (5) As part of a child custody proceeding where the court has reasonable cause to
402 believe that there is an ongoing risk to the child:

403 (a) a court may not order a reunification treatment unless there is generally accepted
404 proof:

405 (i) of the physical and psychological safety, effectiveness, and therapeutic value of the
406 reunification treatment; and

407 (ii) that the reunification treatment is not associated with causing harm to a child;

420 (6) Subject to Subsection (4), Subsection (5) does not preclude the court from ordering
421 reunification treatment that is generally accepted in research and meets the standards of
422 practice for relevant mental health professions if:

423 (a) the court does not find evidence of domestic violence or child abuse; and

424 (b) the court does not find that there is reasonable cause to believe that there is an
425 ongoing risk to the child.



HB272S4: Family Violence Training For Court Personnel

441 (2) The state court administrator described in Section [78A-2-105](#) shall develop or
442 recommend a proposed training and education program that:

443 (a) shall be designed to improve the ability of the courts to:

444 (i) recognize domestic violence and child abuse in child custody proceedings; and

445 (ii) make appropriate custody decisions that prioritize a child's physical and
446 psychological safety and well-being;

447 (b) shall focus solely on domestic and sexual violence and child abuse, including:

448 (i) child sexual abuse;

449 (ii) physical abuse;

450 (iii) emotional abuse;

451 (iv) coercive control;

452 (v) implicit and explicit bias, including biases relating to parents with disabilities;

453 (vi) trauma;

454 (vii) long-term and short-term impacts of domestic violence and child abuse on

455 children; and

456 (viii) victim and perpetrator behavior patterns and relationship dynamics within the

457 cycle of violence;



HB272S4: Child Maltreatment Prevention Best Practices

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*Dr. Campbell's research interests focus on
understanding the experiences of children and
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to improve outcomes for these families.*



THANK
YOU



Existing State Law

(c) Absent a showing by a preponderance of the evidence of real harm or substantiated potential harm to the child:

(i) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to have frequent, meaningful, and continuing access to each parent following separation or divorce;

(ii) each divorcing, separating, or adjudicated parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's child consistent with the child's best interests; and

(iii) it is in the best interests of the child to have both parents actively involved in parenting the child.

