

## **Title 30. Husband and Wife**

### **Chapter 1 Marriage**

#### **30-1-1 Incestuous marriages void.**

- (1) The following marriages are incestuous and void from the beginning, regardless of whether the relationship is legally recognized:
- (a) marriages between parents and children;
  - (b) marriages between ancestors and descendants of every degree;
  - (c) marriages between siblings of the half as well as the whole blood;
  - (d) marriages between:
    - (i) uncles and nieces or nephews; or
    - (ii) aunts and nieces or nephews;
  - (e) marriages between first cousins, except as provided in Subsection (2); or
  - (f) marriages between any individuals related to each other within and not including the fifth degree of consanguinity computed according to the rules of the civil law, except as provided in Subsection (2).
- (2) First cousins may marry under the following circumstances:
- (a) both parties are 65 years of age or older; or
  - (b) if both parties are 55 years of age or older, upon a finding by the district court, located in the district in which either party resides, that either party is unable to reproduce.

Amended by Chapter 217, 2022 General Session

#### **30-1-2 Marriages prohibited and void.**

- (1) The following marriages are prohibited and declared void:
- (a) when there is a spouse living, from whom the individual marrying has not been divorced;
  - (b) except as provided in Subsection (2), when an applicant is under 18 years old; and
  - (c) between a divorced individual and any individual other than the one from whom the divorce was secured until the divorce decree becomes absolute, and, if an appeal is taken, until after the affirmance of the decree.
- (2) A marriage of an individual under 18 years old is not void if the individual:
- (a) is 16 or 17 years old and obtains consent from a parent or guardian and juvenile court authorization in accordance with Section 30-1-9; or
  - (b) lawfully marries before May 14, 2019.

Amended by Chapter 300, 2019 General Session

Amended by Chapter 317, 2019 General Session

#### **30-1-2.1 Validation of marriage to a person subject to chronic epileptic fits who had not been sterilized.**

All marriages, otherwise valid and legal, contracted prior to the effective date of this act, to which either party was subject to chronic epileptic fits and who had not been sterilized, as provided by law, are hereby validated and legalized in all respects as though such marriages had been duly and legally contracted in the first instance.

Enacted by Chapter 41, 1963 General Session

**30-1-2.2 Validation of interracial marriages.**

All interracial marriages, otherwise valid and legal, contracted prior to July 1, 1965, to which one of the parties of the marriage was subject to disability to marry on account of Subsection 30-1-2(5) or (6), as those subsections existed prior to May 14, 1963, are hereby valid and made lawful in all respects as though such marriages had been duly and legally contracted in the first instance.

Amended by Chapter 20, 1995 General Session

**30-1-2.3 Validation of marriage to a person with acquired immune deficiency syndrome or other sexually transmitted disease.**

Each marriage contracted prior to October 21, 1993, is valid and legal but for the prohibition described in Laws of Utah 1991, Chapter 117, Section 1, Subsection 30-1-2(1) regarding persons afflicted with acquired immune deficiency syndrome, syphilis, or gonorrhea, is hereby valid and made lawful in all respects as though that marriage had been legally contracted in the first instance.

Amended by Chapter 20, 1995 General Session

**30-1-3 Legal recognition of a child when marriage is void.**

When a marriage is void under Subsection 30-1-2(1)(a) and the parties entered into the marriage in good faith, a child of the marriage, who is born or conceived before the parties had actual knowledge that the marriage was void, shall be legally recognized as the child of the parties.

Repealed and Re-enacted by Chapter 217, 2022 General Session

**30-1-4 Validity of foreign marriages -- Exceptions.**

A marriage solemnized in any other country, state, or territory, if valid where solemnized, is valid in this state, unless it is a marriage:

- (1) that would be prohibited and declared void in this state, under Subsection 30-1-2(1) (a); or
- (2) between parties who are related to each other within and including three degrees of consanguinity, except as provided in Subsection 30-1-1(2).

Amended by Chapter 300, 2019 General Session

**30-1-4.1 Marriage recognition policy.**

- (1)
  - (a) It is the policy of this state to recognize as marriage only the legal union of a man and a woman as provided in this chapter.
  - (b) Except for the relationship of marriage between a man and a woman recognized pursuant to this chapter, this state will not recognize, enforce, or give legal effect to any law creating any legal status, rights, benefits, or duties that are substantially equivalent to those provided under Utah law to a man and a woman because they are married.
- (2) Nothing in Subsection (1) impairs any contract or other rights, benefits, or duties that are enforceable independently of this section.

Enacted by Chapter 261, 2004 General Session

**30-1-4.5 Validity of marriage not solemnized.**

- (1) A marriage which is not solemnized according to this chapter shall be legal and valid if a court or administrative order establishes that the marriage arises out of a contract between a man and a woman who:
  - (a) are of legal age and capable of giving consent;
  - (b) are legally capable of entering a solemnized marriage under the provisions of this chapter;
  - (c) have cohabited;
  - (d) mutually assume marital rights, duties, and obligations; and
  - (e) who hold themselves out as and have acquired a uniform and general reputation as husband and wife.
- (2)
  - (a) A petition for an unsolemnized marriage shall be filed during the relationship described in Subsection (1), or within one year following the termination of that relationship.
  - (b) Evidence of a marriage recognizable under this section may be manifested in any form, and may be proved under the same general rules of evidence as facts in other cases.

Amended by Chapter 186, 2021 General Session

**30-1-5 Marriage solemnization -- Before unauthorized person -- Validity.**

- (1) A marriage solemnized before a person professing to have authority to perform marriages may not be invalidated for lack of authority, if consummated in the belief of the parties or either of them that the person had authority and that they have been lawfully married.
- (2) This section may not be construed to validate a marriage that is prohibited or void under Section 30-1-2.

Amended by Chapter 297, 2011 General Session

**30-1-6 Who may solemnize marriages -- Certificate.**

- (1) As used in this section:
  - (a) "Judge or magistrate of the United States" means:
    - (i) a justice of the United States Supreme Court;
    - (ii) a judge of a court of appeals;
    - (iii) a judge of a district court;
    - (iv) a judge of any court created by an act of Congress, the judges of which are entitled to hold office during good behavior;
    - (v) a judge of a bankruptcy court;
    - (vi) a judge of a tax court; or
    - (vii) a United States magistrate.
  - (b)
    - (i) "Native American spiritual advisor" means an individual who:
      - (A) leads, instructs, or facilitates a Native American religious ceremony or service or provides religious counseling; and
      - (B) is recognized as a spiritual advisor by a federally recognized Native American tribe.
    - (ii) "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.
- (2) The following individuals may solemnize a marriage:

- (a) an individual 18 years old or older who is authorized by a religious denomination to solemnize a marriage;
  - (b) a Native American spiritual advisor;
  - (c) the governor;
  - (d) the lieutenant governor;
  - (e) the state attorney general;
  - (f) the state treasurer;
  - (g) the state auditor;
  - (h) a mayor of a municipality or county executive;
  - (i) a justice, judge, or commissioner of a court of record;
  - (j) a judge of a court not of record of the state;
  - (k) a judge or magistrate of the United States;
  - (l) the county clerk of any county in the state or the county clerk's designee as authorized by Section 17-20-4;
  - (m) a senator or representative of the Utah Legislature;
  - (n) a member of the state's congressional delegation; or
  - (o) a judge or magistrate who holds office in Utah when retired, under rules set by the Supreme Court.
- (3) An individual authorized under Subsection (2) who solemnizes a marriage shall give to the couple married a certificate of marriage that shows the:
- (a) name of the county from which the license is issued; and
  - (b) date of the license's issuance.
- (4) Except for an individual described in Subsection (2)(l), an individual described in Subsection (2) has discretion to solemnize a marriage.
- (5) Except as provided in Section 17-20-4 and Subsection (2)(l), and notwithstanding any other provision in law, no individual authorized under Subsection (2) to solemnize a marriage may delegate or deputize another individual to perform the function of solemnizing a marriage.

Amended by Chapter 444, 2022 General Session

**30-1-7 Marriage licenses -- Use within state -- Expiration.**

- (1) No marriage may be solemnized in this state without a license issued by the county clerk of any county of this state.
- (2) A license issued within this state by a county clerk may only be used within this state.
- (3) A license that is not used within 32 days after the day on which the licensed is issued is void.

Amended by Chapter 305, 2021 General Session

**30-1-8 Application for license -- Contents.**

- (1) As used in this section, "minor" means the same as that term is defined in Section 30-1-9.
- (2) A county clerk may issue a marriage license only after an application is filed with the county clerk's office, requiring the following information:
  - (a) the full names of the applicants, including the maiden or bachelor name of each applicant;
  - (b) the social security numbers of the applicants, unless an applicant has not been assigned a number;
  - (c) the current address of each applicant;
  - (d) the date and place of birth, including the town or city, county, state or country, if possible;
  - (e) the names of the applicants' respective parents, including the maiden name of a mother; and

- (f) the birthplaces of the applicants' respective parents, including the town or city, county, state or country, if possible.
- (3)
- (a) If one or both of the applicants is a minor, the clerk shall provide each minor with a standard petition on a form provided by the Judicial Council to be presented to the juvenile court to obtain the authorization required by Section 30-1-9.
  - (b) The form described in Subsection (3)(a) shall include:
    - (i) all information described in Subsection (2);
    - (ii) in accordance with Subsection 30-1-9(2)(a), a place for the parent or legal guardian to indicate the parent or legal guardian's relationship to the minor;
    - (iii) an affidavit for the parent or legal guardian to acknowledge the penalty described in Section 30-1-9.1 signed under penalty of perjury;
    - (iv) an affidavit for each applicant regarding the accuracy of the information contained in the marriage application signed under penalty of perjury; and
    - (v) a place for the clerk to sign that indicates that the following have provided documentation to support the information contained in the form:
      - (A) each applicant; and
      - (B) the minor's parent or legal guardian.
- (4)
- (a) The social security numbers obtained under the authority of this section may not be recorded on the marriage license, and are not open to inspection as a part of the vital statistics files.
  - (b) The Department of Health, Bureau of Vital Records and Health Statistics shall, upon request, supply the social security numbers to the Office of Recovery Services within the Department of Human Services.
  - (c) The Office of Recovery Services may not use a social security number obtained under the authority of this section for any reason other than the administration of child support services.

Amended by Chapter 305, 2021 General Session

**30-1-9 Marriage by minors -- Consent of parent or guardian -- Juvenile court authorization.**

- (1) For purposes of this section, "minor" means an individual that is 16 or 17 years old.
- (2)
- (a) If at the time of applying for a license the applicant is a minor, and not before the minor is married, a license may not be issued without the signed consent of the minor's parent or legal guardian given in person to the clerk, except that:
    - (i) if the parents of the minor are divorced, consent shall be given by the parent having legal custody of the minor as evidenced by an oath of affirmation to the clerk;
    - (ii) if the parents of the minor are divorced and have been awarded joint custody of the minor, consent shall be given by the parent having physical custody of the minor the majority of the time as evidenced by an oath of affirmation to the clerk; or
    - (iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.
  - (b) Each applicant and if an applicant is a minor, the minor's consenting parent or legal guardian, shall appear in person before the clerk and provide legal documentation to establish the following information:
    - (i) the legal relationship between the minor and the minor's parent or legal guardian;
    - (ii) the legal name and identity of the minor; and
    - (iii) the birth date of each applicant.

- (c) An individual may present the following documents to satisfy a requirement described in Subsection (2)(b):
    - (i) for verifying the legal relationship between the minor and the minor's parent or legal guardian, one of the following:
      - (A) the minor's certified birth certificate with the name of the parent, and an official translation if the birth certificate is in a language other than English;
      - (B) a report of a birth abroad with the name of the minor and the parent;
      - (C) a certified adoption decree with the name of the minor and the parent; or
      - (D) a certified court order establishing custody or guardianship between the minor and the parent or legal guardian;
    - (ii) for verifying the legal name and identity of the minor, one of the following:
      - (A) an expired or current passport;
      - (B) a driver's license;
      - (C) a certificate of naturalization;
      - (D) a military identification; or
      - (E) a government employee identification card from a federal, state, or municipal government; and
    - (iii) for verifying the birth date of each applicant, one of the following for each applicant:
      - (A) a certified birth certificate;
      - (B) a report of a birth abroad;
      - (C) a certificate of naturalization;
      - (D) a certificate of citizenship;
      - (E) a passport;
      - (F) a driver's license; or
      - (G) a state identification card.
  - (d) An individual may not use a temporary or altered document to satisfy a requirement described in Subsection (2)(b).
- (3)
- (a) The minor and the parent or legal guardian of the minor shall obtain a written authorization to marry from:
    - (i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides; or
    - (ii) a court commissioner as permitted by rule of the Judicial Council.
  - (b) Before issuing written authorization for a minor to marry, the judge or court commissioner shall determine:
    - (i) that the minor is entering into the marriage voluntarily; and
    - (ii) the marriage is in the best interests of the minor under the circumstances.
  - (c) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling, except the requirement for premarital counseling may be waived if premarital counseling is not reasonably available.
  - (d) The judge or court commissioner may require:
    - (i) that the minor continue to attend school, unless excused under Section 53G-6-204; and
    - (ii) any other conditions that the court deems reasonable under the circumstances.
  - (e) The judge or court commissioner may not issue a written authorization to the minor if the age difference between both parties to the marriage is more than seven years.
- (4)
- (a) The determination required in Subsection (3) shall be made on the record.
  - (b) Any inquiry conducted by the judge or commissioner may be conducted in chambers.

Amended by Chapter 305, 2021 General Session

**30-1-9.1 Parental consent to prohibited marriage of minor -- Penalty.**

A parent or guardian who knowingly consents or allows a minor child to enter into a marriage prohibited by law is guilty of a third degree felony.

Enacted by Chapter 129, 2001 General Session

**30-1-10 Affidavit before the clerk -- Penalty.**

- (1) A clerk may not issue a license until an affidavit is made before the clerk, which shall be filed and preserved by the clerk, by a party applying for the license, showing that there is no lawful reason in the way of the marriage.
- (2) A party who makes an affidavit described in Subsection (1) or a subscribing witness to the affidavit who falsely swears in the affidavit is guilty of perjury.

Amended by Chapter 317, 2019 General Session

**30-1-11 Return of license after ceremony -- Failure -- Penalty.**

- (1) The individual solemnizing the marriage shall within 30 days after solemnizing the marriage return the license to the clerk of the county that issues the license, with a certificate of the marriage over the individual's signature, giving the date and place of celebration and the names of two or more witnesses present at the marriage.
- (2) An individual described in Subsection (1) who fails to return the license is guilty of an infraction.

Amended by Chapter 420, 2019 General Session

**30-1-12 Clerk to file license and certificate -- Designation as vital record.**

- (1)
  - (a) The license, together with the certificate of the individual officiating at the marriage, shall be filed and preserved by the clerk, and shall be recorded by the clerk in a book kept for that purpose, or by electronic means.
  - (b) The record shall be properly indexed in the names of the parties so married.
- (2) An individual may use a diacritical mark, as defined in Section 26-2-4, on a marriage license.
- (3) A transcript shall be promptly certified and transmitted by the clerk to the state registrar of vital statistics.
- (4) The license and the certificate of the individual officiating at the marriage are vital records as defined in Section 26-2-2 and are subject to the inspection requirements described in Section 26-2-22.

Amended by Chapter 231, 2022 General Session

**30-1-13 Solemnization without license -- Penalty.**

If an individual knowingly solemnizes a marriage without a license, and if either party is 16 or 17 years old, without a written authorization from a juvenile court, the individual is guilty of a third degree felony.

Amended by Chapter 300, 2019 General Session

**30-1-14 Acting without authority -- Penalty.**

An individual is guilty of a third degree felony if the individual:

- (1) knowingly solemnizes a marriage in violation of Section 30-1-6, 30-1-7, or 30-1-9.1;
- (2) impersonates a parent or guardian of a minor to obtain a license for the minor to marry; or
- (3) forges the name of a parent or guardian of a minor on any writing purporting to give consent to a marriage of a minor.

Amended by Chapter 300, 2019 General Session

**30-1-15 Solemnization of prohibited marriage -- Penalty.**

- (1) Any person who knowingly, with or without a license, solemnizes a marriage of a minor prohibited by law is guilty of a third degree felony.
- (2) Any person who knowingly, with or without a license, solemnizes a marriage between two adults prohibited by law is guilty of a class A misdemeanor.

Amended by Chapter 129, 2001 General Session

**30-1-16 Misconduct of county clerk -- Penalty.**

Every clerk or deputy clerk who knowingly issues a license for any prohibited marriage is guilty of a class A misdemeanor.

Amended by Chapter 108, 2013 General Session

**30-1-17 Action to determine validity of marriage -- Judgment of validity or annulment.**

When there is doubt as to the validity of a marriage, either party may, in a court of equity in a county where either party is domiciled, demand avoidance or affirmance of the marriage, but when one of the parties was under 18 years old at the time of the marriage, the other party, being of proper age, does not have a proceeding for that cause against the party under 18 years old. The judgment in the action shall either declare the marriage valid or annulled and shall be conclusive upon all persons concerned with the marriage.

Amended by Chapter 300, 2019 General Session

**30-1-17.1 Annulment -- Grounds for.**

A marriage may be annulled for any of the following causes existing at the time of the marriage:

- (1) When the marriage is prohibited or void under Title 30, Chapter 1, Marriage.
- (2) Upon grounds existing at common law.

Enacted by Chapter 65, 1971 General Session

**30-1-17.2 Action to determine validity of marriage -- Orders relating to parties, property, and children -- Presumption of paternity in marriage.**

- (1) If the parties have accumulated any property or acquired any obligations subsequent to the marriage, if there is a genuine need arising from an economic change of circumstances due to the marriage, or if there are children born or expected, the court may make temporary and final orders, and subsequently modify the orders, relating to the parties, their property and

obligations, the children and their custody and parent-time, and the support and maintenance of the parties and children, as may be equitable.

- (2) A man is presumed to be the father of a child if:
  - (a) he and the mother of the child are married to each other and the child is born during the marriage;
  - (b) he and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation;
  - (c) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is, or could be, declared invalid and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce, or after a decree of separation; or
  - (d) after the birth of the child, he and the mother of the child have married each other in apparent compliance with law, whether or not the marriage is, or could be declared, invalid, he voluntarily asserted his paternity of the child, and there is no other presumptive father of the child, and:
    - (i) the assertion is in a record filed with the state registrar;
    - (ii) he agreed to be and is named as the child's father on the child's birth certificate; or
    - (iii) he promised in a record to support the child as his own.
- (3) If the child was born at the time of entry of a divorce decree, other children are named as children of the marriage, but that child is specifically not named, the husband is not presumed to be the father of the child not named in the order.
- (4) A presumption of paternity established under this section may only be rebutted in accordance with Section 78B-15-607.
- (5) A final order or decree issued by a tribunal in which paternity is adjudicated may not be set aside unless the court finds that one of the parties perpetrated a fraud in the establishment of the paternity and another party did not know or could not reasonably have known of the fraud at the time of the entry of the order. The party who committed the fraud may not bring the action.

Amended by Chapter 3, 2008 General Session

### **30-1-17.3 Age as basis of action to determine validity of marriage -- Refusal to grant annulment.**

If an action to determine the validity of a marriage is commenced upon the ground that one or both of the parties were prohibited from marriage because of their age, in addition to the application of Sections 30-1-17 through 30-1-17.4, the provisions of this code regarding marriage by a person or persons under 18 years old to the contrary notwithstanding, the court may refuse to grant an annulment if the court finds that it is in the best interest of the parties or their children, to refuse the annulment. The refusal to annul under this section makes the marriage valid and subsisting for all purposes.

Amended by Chapter 300, 2019 General Session

### **30-1-17.4 Action for annulment or divorce as alternative relief.**

Nothing herein shall be construed to prevent the filing of an action requesting an annulment or a divorce as alternative relief.

Enacted by Chapter 65, 1971 General Session

**30-1-30 Premarital counseling or education -- State policy -- Applicability.**

It is the policy of the state to enhance the possibility of couples to achieve more stable, satisfying, and enduring marital and family relationships by providing opportunities for and encouraging the use of premarital counseling or education before securing a marriage license.

Amended by Chapter 347, 2018 General Session

**30-1-31 Premarital counseling board in county -- Appointment, terms, compensation, offices -- Common counseling board with adjacent county.**

The boards of commissioners of the respective counties in this state are authorized to provide for premarital counseling and to require the use of premarital counseling as a condition precedent to the issuance of a marriage license under the provisions of this act. They may appoint a premarital counseling board consisting of seven members, four of whom shall be lay persons and three of whom shall be chosen from the professions of psychiatry, psychology, social work, marriage counseling, the clergy, law or medicine. They may designate the terms of office and the procedures to be followed by the premarital counseling board and provide for payment of compensation and expenses for members. They may pay the salaries and expenses of a counseling staff under the supervision of the premarital counseling board and provide office space, furnishings, equipment and supplies for their use.

A county may join with an adjacent county or counties in forming a common premarital counseling board and in establishing a common master plan for premarital counseling.

Enacted by Chapter 64, 1971 General Session

**30-1-32 Master plan for counseling.**

- (1) It shall be the function and duty of the premarital counseling board, after holding public hearings, to make, adopt, and certify to the county legislative body a master plan for premarital counseling of marriage license applicants within the purposes and objectives of this act.
- (2) The master plan described in Subsection (1) shall include:
  - (a) counseling procedures that:
    - (i) will make applicants aware of problem areas in their proposed marriage;
    - (ii) suggest ways of meeting problems; and
    - (iii) will induce reconsideration or postponement when:
      - (A) the applicants are not sufficiently matured or are not financially capable of meeting the responsibilities of marriage; or
      - (B) are marrying for reasons not conducive to a sound lasting marriage; and
  - (b) standards for evaluating premarital counseling received by the applicants, prior to their application for a marriage license, which would justify issuance of certificate without further counseling being given or required.
- (3) The board may, from time to time, amend or extend the plan described in Subsection (1).
- (4) The premarital counseling board may, subject to Subsection (5):
  - (a) appoint a staff and employees as may be necessary for its work; and
  - (b) contract with social service agencies or other consultants within the county or counties for services it requires.
- (5) Expenditures for the appointments and contracts described in Subsection (4) may not exceed the sums appropriated by the county legislative body plus sums placed at its disposal through gift or otherwise.

Amended by Chapter 297, 2011 General Session

**30-1-33 Conformity to master plan for counseling as prerequisite to marriage license -- Exceptions.**

Whenever the board of commissioners of a county has adopted a master plan for premarital counseling no resident of the county may obtain a marriage license without conforming to the plan, except that:

- (1) Any person who applies for a marriage license shall have the right to secure the license and to marry notwithstanding their failure to conform to the required premarital counseling or their failure to obtain a certificate of authorization from the premarital counseling board if they wait six months from the date of application for issuance of the license.
- (2) This chapter does not apply to any application for a marriage license where both parties are at least 19 years of age and neither has been previously divorced.
- (3) This chapter does not apply to any application for a marriage license unless both applicants have physically resided in Utah for 60 days immediately preceding their application.
- (4) Premarital counseling required by this act shall be considered fulfilled if the applicants present a certificate verified by a clergyman that the applicants have completed a course of premarital counseling approved by a church and given by or under the supervision of the clergyman.

Amended by Chapter 297, 2011 General Session

**30-1-34 Completion of counseling or education.**

- (1) The county clerk of a county that operates an online marriage application system and issues a marriage license to applicants who certify completion of premarital counseling or education in accordance with Subsection (2) shall reduce the marriage license fee by \$20.
- (2)
  - (a) To qualify for the reduced fee under Subsection (1), the applicants shall certify completion of premarital counseling or education in accordance with this Subsection (2).
  - (b) To complete premarital counseling or education, the applicants:
    - (i) shall obtain the premarital counseling or education from:
      - (A) a licensed or ordained minister or the minister's designee who is trained by the minister or denomination to conduct premarital counseling or education;
      - (B) an individual licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;
      - (C) an individual certified by a national organization recognized by the Utah Marriage Commission, created in Title 63M, Chapter 15, Utah Marriage Commission, as a family life educator;
      - (D) a family and consumer sciences educator;
      - (E) an individual who is an instructor approved by a premarital education curriculum that meets the requirements of Subsection (2)(b)(ii); or
      - (F) an online course approved by the Utah Marriage Commission;
    - (ii) shall receive premarital counseling or education that includes information on important factors associated with strong and healthy marriages, including:
      - (A) commitment in marriage; and
      - (B) effective communication and problem-solving skills, including avoiding violence and abuse in the relationship;
    - (iii) shall complete at least three hours of premarital counseling or six hours of premarital education meeting the requirements of this Subsection (2); and

- (iv) shall complete the premarital counseling or education meeting the requirements of this Subsection (2) not more than one year before but at least 14 days before the day on which the marriage license is issued.
- (c) Although applicants are encouraged to take the premarital counseling or education together, each applicant may comply with the requirements of this Subsection (2) separately.
- (3) A provider of premarital counseling or education under this section is encouraged to use research-based relationship inventories.

Amended by Chapter 91, 2021 General Session

**30-1-35 Persons performing counseling services designated by board -- Exemption from license requirements.**

For the purposes of this chapter the premarital counseling board of each county or combination of counties may determine those persons who are to perform any services under this chapter and any person so acting is not subject to prosecution or other sanctions for the person's failure to hold any license for these services as may be required by the laws of the state.

Amended by Chapter 297, 2011 General Session

**30-1-36 Activities included in premarital counseling or education.**

- (1) Premarital counseling may include group counseling, individual counseling, and couple counseling.
- (2) Premarital education may include:
  - (a) a lecture, class, seminar, or workshop provided by a person that meets the requirements of Subsection 30-1-34(2)(b)(i); or
  - (b) an online course approved by the Utah Marriage Commission as provided in Subsection 30-1-34(2)(b)(i)(F).

Amended by Chapter 347, 2018 General Session

**30-1-37 Confidentiality of information obtained under counseling provisions.**

Except for the information required or to be required on the marriage license application form, any information given by a marriage license applicant in compliance with this chapter shall be confidential information and may not be released by any person, board, commission, or other entity. However, the premarital counseling board or board of commissioners may use the information, without identification of individuals, to compile and release statistical data.

Amended by Chapter 297, 2011 General Session

**30-1-38 Fee for counseling.**

Any county adopting a master plan under this act is authorized to charge, in addition to its ordinary marriage license application fees, not more than \$10 for premarital counseling, to be paid by the applicants at the time they make application.

Enacted by Chapter 64, 1971 General Session

## Chapter 2 Property Rights

### **30-2-2 Wife's right to contract, sue and be sued.**

Contracts may be made by a wife, and liabilities incurred and enforced by or against her, to the same extent and in the same manner as if she were unmarried.

No Change Since 1953

### **30-2-3 Conveyances between husband and wife.**

A conveyance, transfer or lien executed by either husband or wife to or in favor of the other shall be valid to the same extent as between other persons.

No Change Since 1953

### **30-2-4 Wife's right to wages -- Actions for personal injury.**

A wife may receive the wages for her personal labor, maintain an action therefor in her own name and hold the same in her own right, and may prosecute and defend all actions for the preservation and protection of her rights and property as if unmarried. There shall be no right of recovery by the husband on account of personal injury or wrong to his wife, or for expenses connected therewith, but the wife may recover against a third person for such injury or wrong as if unmarried, and such recovery shall include expenses of medical treatment and other expenses paid or assumed by the husband.

No Change Since 1953

### **30-2-5 Separate debts.**

- (1) Neither spouse is personally liable for the separate debts, obligations, or liabilities of the other:
  - (a) contracted or incurred before marriage;
  - (b) contracted or incurred during marriage, except family expenses as provided in Section 30-2-9;
  - (c) contracted or incurred after divorce or an order for separate maintenance under this title, except the spouse is personally liable for that portion of the expenses incurred on behalf of a minor child for reasonable and necessary medical and dental expenses, and other similar necessities as provided in a court order under Section 30-3-5, 30-4-3, or 78B-12-212, or an administrative order under Section 62A-11-326; or
  - (d) ordered by the court to be paid by the other spouse under Section 30-3-5 or 30-4-3 and not in conflict with Section 15-4-6.5 or 15-4-6.7.
- (2) The wages, earnings, property, rents, or other income of one spouse may not be reached by a creditor of the other spouse to satisfy a debt, obligation, or liability of the other spouse, as described under Subsection (1).

Amended by Chapter 3, 2008 General Session

### **30-2-6 Actions based on property rights.**

Should the husband or wife obtain possession or control of property belonging to the other before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried.

No Change Since 1953

**30-2-7 Husband's liability for wife's torts.**

For civil injuries committed by a married woman damages may be recovered from her alone, and her husband may not be held liable for those civil injuries, except in cases where he would be jointly liable with her if the marriage did not exist.

Amended by Chapter 297, 2011 General Session

**30-2-8 Agency between husband and wife.**

A husband or wife may constitute the other his or her attorney in fact to control and dispose of his or her property for their mutual benefit or otherwise, and may revoke the appointment the same as other persons.

No Change Since 1953

**30-2-9 Family expenses -- Joint and several liability.**

- (1) The expenses of the family and the education of the children are chargeable upon the property of both spouses or of either of them separately, for which expenses they may be sued jointly or separately.
- (2) For the expenses described in Subsection (1), where there is a written agreement signed by either spouse that allows for the recovery of agreed upon amounts, a creditor or an assignee or successor in interest of the creditor is entitled to recover the contractually allowed amounts against both spouses, jointly and severally.
- (3) Subsection (2) applies to all contracts and agreements under this section entered into by either spouse during the time the parties are married and living together.
- (4) For the purposes of this section, family expenses are considered expenses incurred that benefit and promote the family unit. Items purchased pursuant to a written contract or agreement during the marriage that do not relate to family expenses are not covered by this section.
- (5) The provisions of Subsections (2) and (3) do not create a right to attorney's fees or collection fees as to the nonsigning spouse for purchases of:
  - (a) food or clothing; or
  - (b) home improvements or repairs over \$5,000.

Amended by Chapter 457, 2015 General Session

**30-2-10 Homestead rights -- Custody of children.**

Neither the husband nor wife can remove the other or their children from the homestead without the consent of the other, unless the owner of the property shall in good faith provide another homestead suitable to the condition in life of the family; and if a husband or wife abandons his or her spouse, that spouse is entitled to the custody of the minor children, unless a court of competent jurisdiction shall otherwise direct.

Amended by Chapter 122, 1977 General Session

**30-2-11 Action for consortium due to personal injury.**

- (1) For purposes of this section:

- (a) "injury" or "injured" means a significant permanent injury to a person that substantially changes that person's lifestyle and includes the following:
  - (i) a partial or complete paralysis of one or more of the extremities;
  - (ii) significant disfigurement; or
  - (iii) incapability of the person of performing the types of jobs the person performed before the injury; and
- (b) "spouse" means the legal relationship:
  - (i) established between a man and a woman as recognized by the laws of this state; and
  - (ii) existing at the time of the person's injury.
- (2) The spouse of a person injured by a third party on or after May 4, 1997, may maintain an action against the third party to recover for loss of consortium.
- (3) A claim for loss of consortium begins on the date of injury to the spouse. The statute of limitations applicable to the injured person shall also apply to the spouse's claim of loss of consortium.
- (4) A claim for the spouse's loss of consortium shall be:
  - (a) made at the time the claim of the injured person is made and joinder of actions shall be compulsory; and
  - (b) subject to the same defenses, limitations, immunities, and provisions applicable to the claims of the injured person.
- (5) The spouse's action for loss of consortium:
  - (a) shall be derivative from the cause of action existing in behalf of the injured person; and
  - (b) may not exist in cases where the injured person would not have a cause of action.
- (6) Fault of the spouse of the injured person, as well as fault of the injured person, shall be compared with the fault of all other parties, pursuant to Sections 78B-5-817 through 78B-5-823, for purposes of reducing or barring any recovery by the spouse for loss of consortium.
- (7) Damages awarded for loss of consortium, when combined with any award to the injured person for general damages, may not exceed any applicable statutory limit on noneconomic damages, including Section 78B-3-410.
- (8) Damages awarded for loss of consortium which a governmental entity is required to pay, when combined with any award to the injured person which a governmental entity is required to pay, may not exceed the liability limit for one person in any one occurrence under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session

## **Chapter 3**

### **Divorce**

#### **30-3-1 Procedure -- Residence -- Grounds.**

- (1) Proceedings in divorce are commenced and conducted as provided by law for proceedings in civil causes, except as provided in this chapter.
- (2) The court may decree a dissolution of the marriage contract between the petitioner and respondent on the grounds specified in Subsection (3) in all cases where the petitioner or respondent has been an actual and bona fide resident of this state and of the county where the action is brought, or if members of the armed forces of the United States who are not

legal residents of this state, where the petitioner has been stationed in this state under military orders, for three months next prior to the commencement of the action.

- (3) Grounds for divorce:
- (a) impotency of the respondent at the time of marriage;
  - (b) adultery committed by the respondent subsequent to marriage;
  - (c) willful desertion of the petitioner by the respondent for more than one year;
  - (d) willful neglect of the respondent to provide for the petitioner the common necessities of life;
  - (e) habitual drunkenness of the respondent;
  - (f) conviction of the respondent for a felony;
  - (g) cruel treatment of the petitioner by the respondent to the extent of causing bodily injury or great mental distress to the petitioner;
  - (h) irreconcilable differences of the marriage;
  - (i) incurable insanity; or
  - (j) when the husband and wife have lived separately under a decree of separate maintenance of any state for three consecutive years without cohabitation.
- (4) A decree of divorce granted under Subsection (3)(j) does not affect the liability of either party under any provision for separate maintenance previously granted.
- (5)
- (a) A divorce may not be granted on the grounds of insanity unless:
    - (i) the respondent has been adjudged insane by the appropriate authorities of this or another state prior to the commencement of the action; and
    - (ii) the court finds by the testimony of competent witnesses that the insanity of the respondent is incurable.
  - (b) The court shall appoint for the respondent a guardian ad litem who shall protect the interests of the respondent. A copy of the summons and complaint shall be served on the respondent in person or by publication, as provided by the laws of this state in other actions for divorce, or upon his guardian ad litem, and upon the county attorney for the county where the action is prosecuted.
  - (c) The county attorney shall investigate the merits of the case and if the respondent resides out of this state, take depositions as necessary, attend the proceedings, and make a defense as is just to protect the rights of the respondent and the interests of the state.
  - (d) In all actions the court and judge have jurisdiction over the payment of alimony, the distribution of property, and the custody and maintenance of minor children, as the courts and judges possess in other actions for divorce.
  - (e) The petitioner or respondent may, if the respondent resides in this state, upon notice, have the respondent brought into the court at trial, or have an examination of the respondent by two or more competent physicians, to determine the mental condition of the respondent. For this purpose either party may have leave from the court to enter any asylum or institution where the respondent may be confined. The costs of court in this action shall be apportioned by the court.

Amended by Chapter 47, 1997 General Session

### **30-3-2 Right of husband to divorce.**

The husband may in all cases obtain a divorce from his wife for the same causes and in the same manner as the wife may obtain a divorce from her husband.

No Change Since 1953

**30-3-3 Award of costs, attorney and witness fees -- Temporary alimony.**

- (1) In any action filed under Title 30, Chapter 3, Divorce, Chapter 4, Separate Maintenance, or Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and in any action to establish an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may order a party to pay the costs, attorney fees, and witness fees, including expert witness fees, of the other party to enable the other party to prosecute or defend the action. The order may include provision for costs of the action.
- (2) In any action to enforce an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may award costs and attorney fees upon determining that the party substantially prevailed upon the claim or defense. The court, in its discretion, may award no fees or limited fees against a party if the court finds the party is impecunious or enters in the record the reason for not awarding fees.
- (3) In any action listed in Subsection (1), the court may order a party to provide money, during the pendency of the action, for the separate support and maintenance of the other party and of any children in the custody of the other party.
- (4) Orders entered under this section prior to entry of the final order or judgment may be amended during the course of the action or in the final order or judgment.

Amended by Chapter 142, 2020 General Session

**30-3-3.5 Collection fee for past due child support or alimony.**

- (1) As used in this section:
  - (a) "Debtor" means a person obligated or allegedly obligated to pay a domestic relations debt.
  - (b) "Domestic relations debt" means an obligation or alleged obligation to pay past due child support or alimony.
- (2)
  - (a) A court shall order the amounts described in Subsection (2)(b) be paid, if:
    - (i) the court issues a judgment requiring the payment of a domestic relations debt by the debtor;
    - (ii) imposing a collection fee on the debtor or in relation to the domestic relations debt is not prohibited or otherwise restricted by another federal or state law; and
    - (iii) the person owed the domestic relations debt has a contingency arrangement with an attorney to collect the domestic relations debt.
  - (b) If the conditions of Subsection (2)(a) are met, a court shall order payment of:
    - (i) the principal amount due;
    - (ii) applicable interest;
    - (iii) a collection fee equal to the amount provided in the contingency agreement, except that the collection fee may not exceed the lesser of:
      - (A) the actual amount the person owed the domestic relations debt is required to pay for collection costs, regardless of whether that amount is a specific dollar amount or a percentage of the principal amount owed for the domestic relations debt; or
      - (B) 40% of the principal amount owed to the person for the domestic relations debt;
    - (iv) reasonable attorney fees; and
    - (v) costs, if any, related to obtaining the judgment described in Subsection (2)(a)(i).
- (3) The obligation to pay a collection fee described in Subsection (2)(b)(iii) is incurred at the time the person owed a domestic relations debt enters into an agreement with an attorney to collect the domestic relations debt.

- (4) An obligation to pay a collection fee imposed under this section is in addition to any obligation to pay reasonable attorney fees that may exist.
- (5) The Office of Recovery Services may not collect an order issued pursuant to Subsection (2).

Enacted by Chapter 182, 2020 General Session

**30-3-4 Pleadings -- Decree -- Use of affidavit -- Private records.**

- (1)
  - (a) The complaint shall be in writing and signed by the petitioner or petitioner's attorney.
  - (b) A decree of divorce may not be granted upon default or otherwise except upon legal evidence taken in the cause. If the decree is to be entered upon the default of the respondent, evidence to support the decree may be submitted upon the affidavit of the petitioner with the approval of the court.
  - (c) If the petitioner and the respondent have a child or children, a decree of divorce may not be granted until both parties have attended the mandatory course described in Section 30-3-11.3 or 30-3-11.4, and have presented a certificate of course completion to the court. The court may waive this requirement, on its own motion or on the motion of one of the parties, if it determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.
  - (d) All hearings and trials for divorce shall be held before the court or the court commissioner as provided by Section 78A-5-107 and rules of the Judicial Council. The court or the commissioner in all divorce cases shall enter the decree upon the evidence or, in the case of a decree after default of the respondent, upon the petitioner's affidavit.

- (2)
  - (a) A party to an action brought under this title or to an action under Title 78B, Chapter 12, Utah Child Support Act, Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, Title 78B, Chapter 15, Utah Uniform Parentage Act, or to an action to modify or enforce a judgment in the action may file a motion to have the file other than the final judgment, order, or decree classified as private.
  - (b) If the court finds that there are substantial interests favoring restricting access that clearly outweigh the interests favoring access, the court may classify the file, or any part thereof other than the final order, judgment, or decree, as private. An order classifying part of the file as private does not apply to subsequent filings.
  - (c) The record is private until the judge determines it is possible to release the record without prejudice to the interests that justified the closure. Any interested person may petition the court to permit access to a record classified as private under this section. The petition shall be served on the parties to the closure order.

Amended by Chapter 470, 2018 General Session

**30-3-4.5 Motion for temporary separation order.**

- (1) A petitioner may file an action for a temporary separation order without filing a petition for divorce by filing a petition for temporary separation and motion for temporary orders if:
  - (a) the petitioner is lawfully married to the respondent; and
  - (b) both parties are residents of the state for at least 90 days prior to the date of filing.
- (2) The temporary orders are valid for one year from the date of the hearing, or until one of the following occurs:

- (a) a petition for divorce is filed and consolidated with the petition for temporary separation; or
  - (b) the case is dismissed.
- (3) If a petition for divorce is filed and consolidated with the petition for temporary separation, orders entered in the temporary separation shall continue in the consolidated case.
- (4) Both parties shall attend the divorce orientation course described in Section 30-3-11.4 within 60 days of the filing of the petition, for petitioner, and within 45 days of being served, for respondent.
- (5) Service shall be made upon respondent, together with a 20-day summons, in accordance with the rules of civil procedure.
- (6) The fee for filing the petition for temporary separation orders is \$35. If either party files a petition for divorce within one year from the date of filing the petition for temporary separation, the separation filing fee shall be credited towards the filing fee for the divorce.

Amended by Chapter 34, 2010 General Session

**30-3-5 Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Alimony -- Nonmeritorious petition for modification.**

- (1) As used in this section:
- (a) "Cohabit" means to live together, or to reside together on a regular basis, in the same residence and in a relationship of a romantic or sexual nature.
  - (b) "Fault" means any of the following wrongful conduct during the marriage that substantially contributed to the breakup of the marriage:
    - (i) engaging in sexual relations with an individual other than the party's spouse;
    - (ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or a child;
    - (iii) knowingly and intentionally causing the other party or a child to reasonably fear life-threatening harm; or
    - (iv) substantially undermining the financial stability of the other party or the child.
  - (c) "Length of the marriage" means, for purposes of alimony, the number of years from the day on which the parties are legally married to the day on which the petition for divorce is filed with the court.
- (2) When a decree of divorce is rendered, the court may include in the decree of divorce equitable orders relating to the children, property, debts or obligations, and parties.
- (3) The court shall include the following in every decree of divorce:
- (a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of a dependent child, including responsibility for health insurance out-of-pocket expenses such as co-payments, co-insurance, and deductibles;
  - (b)
    - (i) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for a dependent child; and
    - (ii) a designation of which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary in accordance with Section 30-3-5.4 that will take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans;
  - (c) in accordance with Section 15-4-6.5:

- (i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;
  - (ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and
  - (iii) provisions for the enforcement of these orders;
  - (d) provisions for income withholding in accordance with Title 62A, Chapter 11, Recovery Services; and
  - (e) if either party owns a life insurance policy or an annuity contract, an acknowledgment by the court that the owner:
    - (i) has reviewed and updated, where appropriate, the list of beneficiaries;
    - (ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and
    - (iii) understands that if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract.
- (4)
- (a) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of a dependent child, necessitated by the employment or training of the custodial parent.
  - (b) If the court determines that the circumstances are appropriate and that the dependent child would be adequately cared for, the court may include an order allowing the noncustodial parent to provide child care for the dependent child, necessitated by the employment or training of the custodial parent.
- (5) The court has continuing jurisdiction to make subsequent changes or new orders for the custody of a child and the child's support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.
- (6) Child support, custody, visitation, and other matters related to a child born to the parents after entry of the decree of divorce may be added to the decree by modification.
- (7)
- (a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.
  - (b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.
- (8) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.
- (9) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court may award to the prevailing party:
- (a) actual attorney fees incurred;
  - (b) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, which may include:
    - (i) court costs;

- (ii) child care expenses;
- (iii) transportation expenses actually incurred;
- (iv) lost wages, if ascertainable; and
- (v) counseling for a child or parent if ordered or approved by the court;
- (c) make-up parent time consistent with the best interest of the child; and
- (d) any other appropriate equitable remedy.

(10)

- (a) The court shall consider at least the following factors in determining alimony:
  - (i) the financial condition and needs of the recipient spouse;
  - (ii) the recipient's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a child of the payor spouse;
  - (iii) the ability of the payor spouse to provide support;
  - (iv) the length of the marriage;
  - (v) whether the recipient spouse has custody of a minor child requiring support;
  - (vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and
  - (vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or enabling the payor spouse to attend school during the marriage.
- (b) The court may consider the fault of the parties in determining whether to award alimony and the terms of the alimony.
- (c) The court may, when fault is at issue, close the proceedings and seal the court records.
- (d) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection (10)(a). However, the court shall consider all relevant facts and equitable principles and may, in the court's discretion, base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no child has been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.
- (e) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.
- (f) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.
- (g) In determining alimony when a marriage of short duration dissolves, and no child has been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

(11)

- (a) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not expressly stated in the divorce decree or in the findings that the court entered at the time of the divorce decree.
- (b) A party's retirement is a substantial material change in circumstances that is subject to a petition to modify alimony, unless the divorce decree, or the findings that the court entered at the time of the divorce decree, expressly states otherwise.

- (c) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.
- (d)
  - (i) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in Subsection (10) or this Subsection (11).
  - (ii) The court may consider the subsequent spouse's financial ability to share living expenses.
  - (iii) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.
- (e)
  - (i) Except as provided in Subsection (11)(e)(iii), the court may not order alimony for a period of time longer than the length of the marriage.
  - (ii) If a party is ordered to pay temporary alimony during the pendency of the divorce action, the period of time that the party pays temporary alimony shall be counted towards the period of time for which the party is ordered to pay alimony.
  - (iii) At any time before the termination of alimony, the court may find extenuating circumstances or good cause that justify the payment of alimony for a longer period of time than the length of the marriage.
- (12)
  - (a) Except as provided in Subsection (12)(b), unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse.
  - (b) If the remarriage of the former spouse is annulled and found to be void ab initio, payment of alimony shall resume if the party paying alimony is made a party to the action of annulment and the payor party's rights are determined.
- (13) If a party establishes that a current spouse cohabits with another individual during the pendency of the divorce action, the court:
  - (a) may not order the party to pay temporary alimony to the current spouse; and
  - (b) shall terminate any order that the party pay temporary alimony to the current spouse.
- (14)
  - (a) Subject to Subsection (14)(b), the court shall terminate an order that a party pay alimony to a former spouse if the party establishes that, after the order for alimony is issued, the former spouse cohabits with another individual even if the former spouse is not cohabiting with the individual when the party paying alimony files the motion to terminate alimony.
  - (b) A party paying alimony to a former spouse may not seek termination of alimony under Subsection (14)(a), later than one year from the day on which the party knew or should have known that the former spouse has cohabited with another individual.

Amended by Chapter 263, 2022 General Session

### **30-3-5.1 Provision for income withholding in child support order.**

Whenever a court enters an order for child support, it shall include in the order a provision for withholding income as a means of collecting child support as provided in Title 62A, Chapter 11, Recovery Services.

Amended by Chapter 232, 1997 General Session

### **30-3-5.2 Allegations of child abuse or child sexual abuse -- Investigation.**

When, in any divorce proceeding or upon a request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court, after making an inquiry, may order that an investigation be conducted by the Division of Child and Family Services within the Department of Human Services in accordance with Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child. A final award of custody or parent-time may not be rendered until a report on that investigation, consistent with Section 80-2-1005, is received by the court. That investigation shall be conducted by the Division of Child and Family Services within 30 days of the court's notice and request for an investigation. In reviewing this report, the court shall comply with Sections 78A-2-703, 78A-2-705, and 78B-15-612.

Amended by Chapter 335, 2022 General Session

**30-3-5.4 Designation of primary and secondary health, dental, or hospital insurance coverage.**

- (1) As used in this section, "health, hospital, or dental insurance plan" has the same meaning as "health care insurance" as defined in Section 31A-1-301.
- (2)
  - (a) A decree of divorce rendered in accordance with Section 30-3-5, an order for medical expenses rendered in accordance with Section 78B-12-212, and an administrative order under Section 62A-11-326 shall, in accordance with Subsection (2)(b)(ii), designate which parent's health, hospital, or dental insurance plan is primary coverage and which parent's health, hospital, or dental insurance plan is secondary coverage for a dependent child.
  - (b) The provisions of the court order required by Subsection (2)(a) shall:
    - (i) take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans; and
    - (ii) include the following language:
 

"If, at any point in time, a dependent child is covered by the health, hospital, or dental insurance plans of both parents, the health, hospital, or dental insurance plan of (Parent's Name) shall be primary coverage for the dependent child and the health, hospital, or dental insurance plan of (Other Parent's Name) shall be secondary coverage for the dependent child. If a parent remarries and his or her dependent child is not covered by that parent's health, hospital, or dental insurance plan but is covered by a step-parent's plan, the health, hospital, or dental insurance plan of the step-parent shall be treated as if it is the plan of the remarried parent and shall retain the same designation as the primary or secondary plan of the dependent child."
  - (c) A decree of divorce or related court order may not modify the language required by Subsection (2)(b)(ii).
  - (d) Notwithstanding Subsection (2)(c), a court may allocate the payment of medical expenses including co-payments, deductibles, and co-insurance not covered by health insurance between the parents in accordance with Subsections 30-3-5(3)(a) and 78B-12-212(7).
- (3) In designating primary coverage pursuant to Subsection (2), a court may take into account:
  - (a) the birth dates of the parents;
  - (b) a requirement in a court order, if any, for one of the parents to maintain health insurance coverage for a dependent child;
  - (c) the parent with physical custody of the dependent child; or
  - (d) any other factor the court considers relevant.

Amended by Chapter 263, 2022 General Session

**30-3-7 When decree becomes absolute.**

- (1) The decree of divorce becomes absolute:
  - (a) on the date it is signed by the court and entered by the clerk in the register of actions;
  - (b) at the expiration of a period of time the court may specifically designate, unless an appeal or other proceedings for review are pending; or
  - (c) when the court, before the decree becomes absolute, for sufficient cause otherwise orders.
- (2) The court, upon application or on its own motion for good cause shown, may waive, alter, or extend a designated period of time before the decree becomes absolute, but not to exceed six months from the signing and entry of the decree.

Amended by Chapter 404, 2012 General Session

**30-3-8 Remarriage -- When unlawful.**

Neither party to a divorce proceeding which dissolves their marriage by decree may marry any person other than the spouse from whom the divorce was granted until it becomes absolute. If an appeal is taken, the divorce is not absolute until after affirmance of the decree.

Amended by Chapter 154, 1988 General Session

**30-3-10 Custody of a child -- Custody factors.**

- (1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.
- (2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:
  - (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;
  - (b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:
    - (i) physical needs;
    - (ii) emotional needs;
    - (iii) educational needs;
    - (iv) medical needs; and
    - (v) any special needs;
  - (c) the parent's capacity and willingness to function as a parent, including:
    - (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 child and the other parent, except that, if the court determines that the parent is acting to protect the 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;

- (d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;
  - (e) the emotional stability of the parent;
  - (f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;
  - (g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;
  - (h) the parent's reasons 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 child;
  - (k) the parent's financial responsibility;
  - (l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;
  - (m) who has been the primary caretaker of the child;
  - (n) previous parenting arrangements in which the 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 child, taking into consideration the child's cognitive ability and emotional maturity;
  - (q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and
  - (r) any other factor the court finds relevant.
- (3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases when there is:
- (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;
  - (b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;
  - (c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or
  - (d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.
- (4)
- (a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.
  - (b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.
- (5)
- (a) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.
  - (b)
    - (i) The court may inquire of the child's and take into consideration the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the child's custody or parent-time otherwise.
    - (ii) The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.
  - (c)

- (i) If an interview with a child is conducted by the court pursuant to Subsection (5)(b), the interview shall be conducted by the judge in camera.
  - (ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.
- (6)
- (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.
  - (b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:
    - (i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and
    - (ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.
  - (c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.
- (7) This section does not establish a preference for either parent solely because of the gender of the parent.
- (8) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.
- (9) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.
- (10) In considering the past conduct and demonstrated moral standards of each party under Subsection (2)(d) or any other factor a court finds relevant, the court may not:
- (a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, Title 26, Chapter 61a, Utah Medical Cannabis Act, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or
  - (b) discriminate against a parent because of the parent's status as a:
    - (i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;
    - (ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;
    - (iii) medical cannabis courier agent, as that term is defined in Section 26-61a-102; or
    - (iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Amended by Chapter 5, 2019 Special Session 1

**30-3-10.1 Definitions -- Joint legal custody -- Joint physical custody.**

As used in this chapter:

- (1)

- (a) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child.
- (b) "Custodial responsibility" includes physical custody, legal custody, parenting time, right to access, visitation, and authority to grant limited contact with a child.
- (2) "Joint legal custody":
  - (a) means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified;
  - (b) may include an award of exclusive authority by the court to one parent to make specific decisions;
  - (c) does not affect the physical custody of the child except as specified in the order of joint legal custody;
  - (d) is not based on awarding equal or nearly equal periods of physical custody of and access to the child to each of the parents, as the best interest of the child often requires that a primary physical residence for the child be designated; and
  - (e) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.
- (3) "Joint physical custody":
  - (a) means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support;
  - (b) can mean equal or nearly equal periods of physical custody of and access to the child by each of the parents, as required to meet the best interest of the child;
  - (c) may require that a primary physical residence for the child be designated; and
  - (d) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.
- (4) "Servicemember" means a member of a uniformed service.
- (5) "Uniformed service" means:
  - (a) active and reserve components of the United States Armed Forces;
  - (b) the United States Merchant Marine;
  - (c) the commissioned corps of the United States Public Health Service;
  - (d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or
  - (e) the national guard of a state.

Amended by Chapter 224, 2017 General Session

**30-3-10.2 Joint custody order -- Factors for court determination -- Public assistance.**

- (1) The court may order joint legal custody or joint physical custody or both if one or both parents have filed a parenting plan in accordance with Section 30-3-10.8 and the court determines that joint legal custody or joint physical custody or both is in the best interest of the child.
- (2) In determining whether the best interest of a child will be served by ordering joint legal custody or joint physical custody or both, the court shall consider the custody factors in Section 30-3-10 and the following factors:
  - (a) whether the physical, psychological, and emotional needs and development of the child will benefit from joint legal custody or joint physical custody or both;
  - (b) the ability of the parents to give first priority to the welfare of the child and reach shared decisions in the child's best interest;
  - (c) co-parenting skills, including:
    - (i) ability to appropriately communicate with the other parent;

- (ii) ability to encourage the sharing of love and affection; and
  - (iii) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and
  - (d) whether both parents participated in raising the child before the divorce;
  - (e) the geographical proximity of the homes of the parents;
  - (f) the preference of the child if the child is of sufficient age and capacity to reason so as to form an intelligent preference as to joint legal custody or joint physical custody or both;
  - (g) the maturity of the parents and their willingness and ability to protect the child from conflict that may arise between the parents;
  - (h) the past and present ability of the parents to cooperate with each other and make decisions jointly; and
  - (i) any other factor the court finds relevant.
- (3) The determination of the best interest of the child shall be by a preponderance of the evidence.
- (4) The court shall inform both parties that an order for joint physical custody may preclude eligibility for cash assistance provided under Title 35A, Chapter 3, Employment Support Act.
- (5) The court may order that when possible the parties attempt to settle future disputes by a dispute resolution method before seeking enforcement or modification of the terms and conditions of the order of joint legal custody or joint physical custody through litigation, except in emergency situations requiring ex parte orders to protect the child.

Amended by Chapter 188, 2019 General Session

**30-3-10.3 Terms of joint legal or physical custody order.**

- (1) Unless the court orders otherwise, before a final order of joint legal custody or joint physical custody is entered both parties shall attend the mandatory course for divorcing parents, as provided in Section 30-3-11.3, and present a certificate of completion from the course to the court.
- (2) An order of joint legal or physical custody shall provide terms the court determines appropriate, which may include specifying:
- (a) either the county of residence of the child, until altered by further order of the court, or the custodian who has the sole legal right to determine the residence of the child;
  - (b) that the parents shall exchange information concerning the health, education, and welfare of the child, and where possible, confer before making decisions concerning any of these areas;
  - (c) the rights and duties of each parent regarding the child's present and future physical care, support, and education;
  - (d) provisions to minimize disruption of the child's attendance at school and other activities, his daily routine, and his association with friends; and
  - (e) as necessary, the remaining parental rights, privileges, duties, and powers to be exercised by the parents solely, concurrently, or jointly.
- (3) The court shall, where possible, include in the order the terms of the parenting plan provided in accordance with Section 30-3-10.8.
- (4) Any parental rights not specifically addressed by the court order may be exercised by the parent having physical custody of the child the majority of the time.
- (5) The appointment of joint legal or physical custodians does not impair or limit the authority of the court to order support of the child, including payments by one custodian to the other.
- (6) An order of joint legal custody, in itself, is not grounds for modifying a support order.

- (7) An order of joint legal or physical custody shall require a parenting plan incorporating a dispute resolution procedure the parties agree to use:
- (a) in accordance with Section 30-3-10.9, or as ordered by the court in accordance with Subsection 30-3-10.2(5); and
  - (b) before seeking enforcement or modification of the terms and conditions of the order of joint legal or physical custody through litigation, except in emergency situations requiring ex parte orders to protect the child.

Amended by Chapter 271, 2012 General Session

**30-3-10.4 Modification or termination of order.**

- (1) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:
- (a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that the circumstances of the child or one or both parents or joint legal or physical custodians have materially and substantially changed since the entry of the order to be modified;
  - (b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child; and
  - (c)
    - (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 30-3-10.3(7); or
    - (ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 30-3-10.2(5) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.
- (2)
- (a) In determining whether the best interest of a child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors outlined in Section 30-3-10 and Subsection 30-3-10.2(2).
  - (b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:
    - (i) a material and substantial change of circumstance has occurred; and
    - (ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child.
  - (c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the child is thriving, happy, and well-adjusted.
- (3) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Subsection 30-3-10(3). The court may modify the terms and conditions of the existing order in accordance with Subsection 30-3-10(8) and may order the parents to file a parenting plan in accordance with this chapter.
- (4) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

- (5) If the court finds that an action under this section is filed or answered frivolously and in a manner designed to harass the other party, the court shall assess attorney fees as costs against the offending party.
- (6) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

Amended by Chapter 188, 2019 General Session

**30-3-10.5 Payments of support, maintenance, and alimony.**

- (1) All monthly payments of support, maintenance, or alimony provided for in the order or decree shall be due on the first day of each month for purposes of Section 78B-12-112, child support services pursuant to Title 62A, Chapter 11, Part 3, Child Support Services Act, income withholding services pursuant to Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and other income withholding procedures pursuant to Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases.
- (2) For purposes of child support services and income withholding pursuant to Title 62A, Chapter 11, Part 3, Child Support Services Act, and Part 4, Income Withholding in IV-D Cases, child support is not considered past due until the first day of the following month.
- (3) For purposes other than those specified in Subsections (1) and (2), support shall be payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the order or decree provides for a different time for payment.

Amended by Chapter 3, 2008 General Session

**30-3-10.7 Parenting plan -- Definitions.**

- (1) "Domestic violence" means the same as in Section 77-36-1.
- (2) "Parenting plan" means a plan for parenting a child, including allocation of parenting functions, which is incorporated in any final decree or decree of modification including an action for dissolution of marriage, annulment, legal separation, or paternity.
- (3) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child.  
Parenting functions include:
  - (a) maintaining a loving, stable, consistent, and nurturing relationship with the child;
  - (b) attending to the daily needs of the child, such as feeding, clothing, physical care, grooming, supervision, health care, day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;
  - (c) attending to adequate education for the child, including remedial or other education essential to the best interest of the child;
  - (d) assisting the child in developing and maintaining appropriate interpersonal relationships;
  - (e) exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and family social and economic circumstances; and
  - (f) providing for the financial support of the child.

Amended by Chapter 287, 2006 General Session

**30-3-10.8 Parenting plan -- Filing -- Modifications.**

- (1) In any proceeding under this chapter, including actions for paternity, a party requesting joint custody, joint legal or physical custody, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan at the time of the filing of their original petition or at the time of filing their answer or counterclaim.
- (2) In proceedings for a modification of custody provisions or modification of a parenting plan, a proposed parenting plan shall be filed and served with the petition to modify, or the answer or counterclaim to the petition to modify.
- (3) A party who files a proposed parenting plan in compliance with this section may move the court for an order of default to adopt the plan if the other party fails to file a proposed parenting plan as required by this section.
- (4) Either party may file and serve an amended proposed parenting plan according to the rules for amending pleadings.
- (5) The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.
- (6) Both parents may submit a parenting plan which has been agreed upon. A verified statement, signed by both parents, shall be attached.
- (7) If the parents file inconsistent parenting plans, the court may appoint a guardian ad litem to represent the best interests of the child, who may, if necessary, file a separate parenting plan reflecting the best interests of the child.
- (8) When one or both parents are a servicemember, the parenting plan shall be consistent with Subsection 30-3-10.9(10). If after a parenting plan is adopted, one or both parents become servicemembers, as soon as practical, the parents shall amend the existing parenting plan to comply with Subsection 30-3-10.9(10).

Amended by Chapter 224, 2017 General Session

**30-3-10.9 Parenting plan -- Objectives -- Required provisions -- Dispute resolution -- Education plan.**

- (1) The objectives of a parenting plan are to:
  - (a) provide for the child's physical care;
  - (b) maintain the child's emotional stability;
  - (c) provide for the child's changing needs as the child grows and matures in a way that minimizes the need for future modifications to the parenting plan;
  - (d) set forth the authority and responsibilities of each parent with respect to the child consistent with the definitions outlined in this chapter;
  - (e) minimize the child's exposure to harmful parental conflict;
  - (f) encourage the parents, where appropriate, to meet the responsibilities to their minor children through agreements in the parenting plan rather than relying on judicial intervention; and
  - (g) protect the best interests of the child.
- (2) The parenting plan shall contain provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the child, and provisions addressing notice and parent-time responsibilities in the event of the relocation of either party. It may contain other provisions comparable to those in Sections 30-3-5 and 30-3-10.3 regarding the welfare of the child.
- (3) A process for resolving disputes shall be provided unless precluded or limited by statute. A dispute resolution process may include:
  - (a) counseling;

- (b) mediation or arbitration by a specified individual or agency; or
  - (c) court action.
- (4) In the dispute resolution process:
- (a) preference shall be given to the provisions in the parenting plan;
  - (b) parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;
  - (c) a written record shall be prepared of any agreement reached in counseling or mediation and provided to each party;
  - (d) if arbitration becomes necessary, a written record shall be prepared and a copy of the arbitration award shall be provided to each party;
  - (e) if the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award attorney fees and financial sanctions to the prevailing parent;
  - (f) the district court has the right of review from the dispute resolution process; and
  - (g) the provisions of this Subsection (4) shall be set forth in any final decree or order.
- (5)
- (a) Subject to the other provisions of this Subsection (5), the parenting plan shall allocate decision-making authority to one or both parties regarding the child's education, healthcare, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the child in these specified areas or in other areas into the plan, consistent with the criteria outlined in Subsection 30-3-10.7(2) and Subsection (1). Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.
  - (b) A child's education plan shall designate the following:
    - (i) the home residence for purposes of identifying the appropriate school or another specific plan that provides for where the child will attend school;
    - (ii) which parent has authority to make education decisions for the child if the parents cannot agree; and
    - (iii) whether one or both parents have access to the child during school and authority to check the child out of school.
  - (c) If no education provision is included in the parent plan:
    - (i) a parent with sole physical custody shall make the decisions listed in Subsection (5)(b);
    - (ii) in the event of joint physical custody when one parent has custody a majority of the time, pursuant to Subsection 30-3-10.3(4):
      - (A) the parent having the child the majority of the time shall make the decisions listed in Subsections (5)(b)(i) and (ii); and
      - (B) both parents with joint physical custody shall have access to the child during school and authority to check the child out of school; or
    - (iii) in the event of joint physical custody when the parents have custody an equal amount of time:
      - (A) the court shall determine how the decisions listed in Subsections (5)(b)(i) and (ii) are made; and
      - (B) both parents with joint physical custody shall have access to the child during school and authority to check the child out of school.
- (6) Each parent may make decisions regarding the day-to-day care and control of the child while the child is residing with that parent.
- (7) When mutual decision-making is designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the dispute resolution process.

- (8) The plan shall include a residential schedule that designates in which parent's home each minor child shall reside on given days of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions.
- (9) If a parent fails to comply with a provision of the parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected. Failure to comply with a provision of the parenting plan or a child support order may result in a finding of contempt of court.
- (10)
  - (a) When one or both parents are servicemembers, the parenting plan shall contain provisions that address the foreseeable parenting and custodial issues likely to arise in the event of notification of deployment or other contingency, including long-term deployments, short-term deployments, death, incapacity, and noncombatant evacuation operations.
  - (b) The provisions in the parenting plan described in Subsection (10)(a) shall comport substantially with the requirements of an agreement made pursuant to Section 78B-20-201.

Amended by Chapter 37, 2018 General Session

### **30-3-10.10 Parenting plan -- Domestic violence.**

- (1) In any proceeding regarding a parenting plan, the court shall consider evidence of domestic violence, if presented.
- (2) If there is a protective order, civil stalking injunction, or the court finds that a parent has committed domestic violence, the court shall consider the impact of domestic violence in awarding parent-time, and make specific findings regarding the award of parent-time.
- (3) If the court orders parent-time and a protective order or civil stalking injunction is still in place, it shall consider whether to order the parents to conduct parent-time pick-up and transfer through a third party. The parent who is the stated victim in the order or injunction may submit to the court, and the court shall consider, the name of a person considered suitable to act as the third party.
- (4) If the court orders the parents to conduct parent-time through a third party, the parenting plan shall specify the time, day, place, manner, and the third party to be used to implement the exchange.

Enacted by Chapter 287, 2006 General Session

### **30-3-10.17 Social security number in court records.**

The social security number of any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment shall be placed in the records relating to the matter.

Enacted by Chapter 232, 1997 General Session

### **30-3-11.1 Family Court Act -- Purpose.**

It is the public policy of the state of Utah to strengthen the family life foundation of our society and reduce the social and economic costs to the state resulting from broken homes and to take reasonable measures to preserve marriages, particularly where minor children are involved. The purposes of this act are to protect the rights of children and to promote the public welfare by preserving and protecting family life and the institution of matrimony by providing the courts with further assistance for family counseling, the reconciliation of spouses and the amicable settlement of domestic and family controversies.

Enacted by Chapter 72, 1969 General Session

**30-3-11.2 Appointment of counsel for child.**

If, in any action before any court of this state involving the custody or support of a child, it shall appear in the best interests of the child to have a separate exposition of the issues and personal representation for the child, the court may appoint counsel to represent the child throughout the action, and the attorney's fee for such representation may be taxed as a cost of the action.

Enacted by Chapter 72, 1969 General Session

**30-3-11.3 Mandatory educational course for divorcing parents -- Purpose -- Curriculum -- Reporting.**

- (1) The Judicial Council shall approve and implement a mandatory course for divorcing parents in all judicial districts. The mandatory course is designed to educate and sensitize divorcing parties to their children's needs both during and after the divorce process.
- (2) The Judicial Council shall adopt rules to implement and administer this program.
- (3)
  - (a) As a prerequisite to receiving a divorce decree, both parties are required to attend a mandatory course on their children's needs after filing a complaint for divorce and receiving a docket number, unless waived under Section 30-3-4. If that requirement is waived, the court may permit the divorce action to proceed.
  - (b) With the exception of a temporary restraining order pursuant to Rule 65, Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory educational course for divorcing parents required by this section.
- (4) The court may require unmarried parents to attend this educational course when those parents are involved in a visitation or custody proceeding before the court.
- (5) The mandatory course shall instruct both parties:
  - (a) about divorce and its impacts on:
    - (i) their child or children;
    - (ii) their family relationship; and
    - (iii) their financial responsibilities for their child or children; and
  - (b) that domestic violence has a harmful effect on children and family relationships.
- (6) The course may be provided through live instruction, video instruction, or an online provider. The online and video options must be formatted as interactive presentations that ensure active participation and learning by the parent.
- (7) The Administrative Office of the Courts shall administer the course pursuant to Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and organize the program in each of Utah's judicial districts. The contracts shall provide for the recoupment of administrative expenses through the costs charged to individual parties, pursuant to Subsection (9).
- (8) A certificate of completion constitutes evidence to the court of course completion by the parties.
- (9)
  - (a) Each party shall pay the costs of the course to the independent contractor providing the course at the time and place of the course. A fee of \$8 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account, described in Section 51-9-408.

- (b) Each party who is unable to pay the costs of the course may attend the course without payment upon a prima facie showing of indigency as evidenced by an affidavit of indigency filed in the district court in accordance with Section 78A-2-302. In those situations, the independent contractor shall be reimbursed for the independent contractor's costs from the appropriation to the Administrative Office of the Courts for "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce may be entered, the court shall make a final review and determination of indigency and may order the payment of the costs if so determined.
- (10) Appropriations from the General Fund to the Administrative Office of the Courts for the "Mandatory Educational Course for Divorcing Parents Program" shall be used to pay the costs of an indigent parent who makes a showing as provided in Subsection (9)(b).
- (11) The Administrative Office of the Courts shall adopt a program to evaluate the effectiveness of the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.

Amended by Chapter 272, 2022 General Session

**30-3-11.4 Mandatory orientation course for divorcing parties -- Purpose -- Curriculum -- Reporting.**

- (1) There is established a mandatory divorce orientation course for all parties with minor children who file a petition for temporary separation or for a divorce. A couple with no minor children is not required, but may choose to attend the course. The purpose of the course is to educate parties about the divorce process and reasonable alternatives.
- (2) A petitioner shall attend a divorce orientation course no more than 60 days after filing a petition for divorce.
- (3)
  - (a) With the exception of a temporary restraining order pursuant to Rule 65, Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce or petition for temporary separation, until the moving party completes the divorce orientation course.
  - (b) Notwithstanding Subsection (3)(a), both parties shall attend a divorce orientation course before a divorce decree may be entered, unless waived by the court under Section 30-3-4.
- (4) The respondent shall attend the divorce orientation course no more than 30 days after being served with a petition for divorce.
- (5) The clerk of the court shall provide notice to a petitioner of the requirement for the course, and information regarding the course shall be included with the petition or motion, when served on the respondent.
- (6) The divorce orientation course shall be neutral, unbiased, at least one hour in duration, and include:
  - (a) options available as alternatives to divorce;
  - (b) resources available from courts and administrative agencies for resolving custody and support issues without filing for divorce;
  - (c) resources available to improve or strengthen the marriage;
  - (d) a discussion of the positive and negative consequences of divorce;
  - (e) a discussion of the process of divorce;
  - (f) options available for proceeding with a divorce, including:
    - (i) mediation;
    - (ii) collaborative law; and

- (iii) litigation; and
- (g) a discussion of post-divorce resources.
- (7) The course may be provided in conjunction with the mandatory course for divorcing parents required by Section 30-3-11.3.
- (8) The Administrative Office of the Courts shall administer the course pursuant to Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts.
- (9) The course may be through live instruction, video instruction, or through an online provider.
- (10)
  - (a) A participant shall pay the costs of the course, which may not exceed \$30, to the independent contractor providing the course at the time and place of the course.
  - (b) A petitioner who attends a live instruction course within 30 days of filing may not be charged more than \$15 for the course.
  - (c) A respondent who attends a live instruction course within 30 days of being served with a petition for divorce may not be charged more than \$15 for the course.
  - (d) A fee of \$5 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account described in Section 51-9-408.
  - (e) Each party who is unable to pay the costs of the course may attend the course without payment upon a prima facie showing of indigency as evidenced by an affidavit of indigency filed in the district court in accordance with Section 78A-2-302. The independent contractor shall be reimbursed for the independent contractor's costs by the Administrative Office of the Courts. A petitioner who is later determined not to meet the qualifications for indigency may be ordered to pay the costs of the course.
- (11) Appropriations from the General Fund to the Administrative Office of the Courts for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is determined to be indigent as provided in Subsection (10)(e).
- (12) The Online Court Assistance Program shall include instructions with the forms for divorce that inform the petitioner of the requirement of this section.
- (13) A certificate of completion constitutes evidence to the court of course completion by the parties.
- (14) It shall be an affirmative defense in all divorce actions that the divorce orientation requirement was not complied with, and the action may not continue until a party has complied.
- (15) The Administrative Office of the Courts shall adopt a program to evaluate the effectiveness of the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.

Amended by Chapter 272, 2022 General Session

**30-3-18 Waiting period for hearing after filing for divorce -- Exemption -- Use of counseling and education services not to be construed as condonation or promotion.**

- (1) Unless the court finds that extraordinary circumstances exist and otherwise orders, no hearing for decree of divorce may be held by the court until 30 days has elapsed from the filing of the complaint, but the court may make interim orders as it considers just and equitable.
- (2) The use of counseling, mediation, and education services provided under this chapter may not be construed as condoning the acts that may constitute grounds for divorce on the part of either spouse nor of promoting divorce.

Amended by Chapter 470, 2018 General Session

**30-3-32 Parent-time -- Definitions -- Considerations for parent-time -- Relocation.**

- (1) As used in Sections 30-3-32 through 30-3-37:
  - (a) "Child" means the child of divorcing, separating, or adjudicated parents.
  - (b) "Supervised parent-time" means parent-time that requires the noncustodial parent to be accompanied during parent-time by an individual approved by the court.
  - (c) "Surrogate care" means care by any individual other than the parent of the child.
  - (d) "Uninterrupted time" means parent-time exercised by one parent without interruption at any time by the presence of the other parent.
  - (e) "Virtual parent-time" means parent-time facilitated by tools such as telephone, email, instant messaging, video conferencing, and other wired or wireless technologies over the Internet or other communication media, to supplement in-person visits between a noncustodial parent and a child or between a child and the custodial parent when the child is staying with the noncustodial parent.
- (2)
  - (a) A court shall consider as primary the safety and well-being of the child and the parent who experiences domestic or family violence.
  - (b) Absent a showing by a preponderance of 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.
- (3) An order issued by a court pursuant to Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, shall be considered evidence of real harm or substantiated potential harm to the child.
- (4) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 30-3-37.

Amended by Chapter 471, 2022 General Session

**30-3-33 Advisory guidelines.**

In addition to the parent-time schedules provided in Sections 30-3-35 and 30-3-35.5, the following advisory guidelines are suggested to govern all parent-time arrangements between parents.

- (1) Parent-time schedules mutually agreed upon by both parents are preferable to a court-imposed solution.
- (2) The parent-time schedule shall be used to maximize the continuity and stability of the child's life.
- (3) Special consideration shall be given by each parent to make the child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the child or in the life of either parent which may inadvertently conflict with the parent-time schedule.

- (4) The responsibility for the pick up, delivery, and return of the child shall be determined by the court when the parent-time order is entered, and may be changed at any time a subsequent modification is made to the parent-time order.
- (5) If the noncustodial parent will be providing transportation, the custodial parent shall have the child ready for parent-time at the time the child is to be picked up and shall be present at the custodial home or shall make reasonable alternate arrangements to receive the child at the time the child is returned.
- (6) If the custodial parent will be transporting the child, the noncustodial parent shall be at the appointed place at the time the noncustodial parent is to receive the child, and have the child ready to be picked up at the appointed time and place, or have made reasonable alternate arrangements for the custodial parent to pick up the child.
- (7) Regular school hours may not be interrupted for a school-age child for the exercise of parent-time by either parent.
- (8) The court may make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents and may increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections 30-3-35 and 30-3-35.5.
- (9) The court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time.
- (10) Neither parent-time nor child support is to be withheld due to either parent's failure to comply with a court-ordered parent-time schedule.
- (11) The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the child is participating or being honored, and the noncustodial parent shall be entitled to attend and participate fully.
- (12) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records and shall be notified immediately by the custodial parent in the event of a medical emergency.
- (13) Each parent shall provide the other with the parent's current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change.
- (14) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available, provided that if the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:
  - (a) the best interests of the child;
  - (b) each parent's ability to handle any additional expenses for virtual parent-time; and
  - (c) any other factors the court considers material.
- (15) Parental care shall be presumed to be better care for the child than surrogate care and the court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the children, to provide the child care. Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.
- (16) Each parent shall provide all surrogate care providers with the name, current address, and telephone number of the other parent and shall provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the court for good cause orders otherwise.
- (17) Each parent shall be entitled to an equal division of major religious holidays celebrated by the parents, and the parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the child on the religious holiday.

- (18) If the child is on a different parent-time schedule than a sibling, based on Sections 30-3-35 and 30-3-35.5, the parents should consider if an upward deviation for parent-time with all the minor children so that parent-time is uniform between school aged and nonschool aged children, is appropriate.
- (19) When one or both parents are servicemembers or contemplating joining a uniformed service, the parents should resolve issues of custodial responsibility in the event of deployment as soon as practicable through reaching a voluntary agreement pursuant to Section 78B-20-201 or through court order obtained pursuant to Section 30-3-10. Servicemembers shall ensure their family care plan reflects orders and agreements entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.

Amended by Chapter 224, 2017 General Session

**30-3-34 Parent-time -- Best interests -- Rebuttable presumption.**

- (1) If the parties are unable to agree on a parent-time schedule, the court may:
- (a) establish a parent-time schedule; or
  - (b) order a parent-time schedule described in Section 30-3-35, 30-3-35.1, 30-3-35.2, or 30-3-35.5.
- (2) The advisory guidelines as provided in Section 30-3-33 and the parent-time schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled.
- (3) A court may consider the following when ordering a parent-time schedule:
- (a) whether parent-time would endanger the child's physical health or mental health, or significantly impair the child's emotional development;
  - (b) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, a parent, or a household member of the parent;
  - (c) the distance between the residency of the child and the noncustodial parent;
  - (d) a credible allegation of child abuse has been made;
  - (e) the lack of demonstrated parenting skills without safeguards to ensure the child's well-being during parent-time;
  - (f) the financial inability of the noncustodial parent to provide adequate food and shelter for the child during periods of parent-time;
  - (g) the preference of the child if the court determines the child is of sufficient maturity;
  - (h) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or an adult corrections facility;
  - (i) shared interests between the child and the noncustodial parent;
  - (j) the involvement or lack of involvement of the noncustodial parent in the school, community, religious, or other related activities of the child;
  - (k) the availability of the noncustodial parent to care for the child when the custodial parent is unavailable to do so because of work or other circumstances;
  - (l) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-time;
  - (m) the minimal duration of and lack of significant bonding in the parents' relationship before the conception of the child;
  - (n) the parent-time schedule of siblings;
  - (o) the lack of reasonable alternatives to the needs of a nursing child; and
  - (p) any other criteria the court determines relevant to the best interests of the child.
- (4) The court shall enter the reasons underlying the court's order for parent-time that:

- (a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or
  - (b) provides more or less parent-time than a parent-time schedule provided in Section 30-3-35 or 30-3-35.5.
- (5) A court may not order a parent-time schedule unless the court determines by a preponderance of the evidence that the parent-time schedule is in the best interest of the child.
- (6) Once the parent-time schedule has been established, the parties may not alter the schedule except by mutual consent of the parties or a court order.

Amended by Chapter 399, 2021 General Session

**30-3-34.5 Supervised parent-time.**

- (1) Considering the fundamental liberty interests of parents and children, it is the policy of this state that divorcing parents have unrestricted and unsupervised access to their children. When necessary to protect a child and no less restrictive means is reasonably available however, a court may order supervised parent-time if the court finds evidence that the child would be subject to physical or emotional harm or child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114, from the noncustodial parent if left unsupervised with the noncustodial parent.
- (2) A court that orders supervised parent-time shall give preference to persons suggested by the parties to supervise, including relatives. If the court finds that the persons suggested by the parties are willing to supervise, and are capable of protecting the children from physical or emotional harm, or child abuse, the court shall authorize the persons to supervise parent-time.
- (3) If the court is unable to authorize any persons to supervise parent-time pursuant to Subsection (2), the court may require that the noncustodial parent seek the services of a professional individual or agency to exercise their supervised parent-time.
- (4) At the time supervised parent-time is imposed, the court shall consider:
- (a) whether the cost of professional or agency services is likely to prevent the noncustodial parent from exercising parent-time; and
  - (b) whether the requirement for supervised parent-time should expire after a set period of time.
- (5) The court shall, in its order for supervised parent-time, provide specific goals and expectations for the noncustodial parent to accomplish before unsupervised parent-time may be granted. The court shall schedule one or more follow-up hearings to revisit the issue of supervised parent-time.
- (6) A noncustodial parent may, at any time, petition the court to modify the order for supervised parent-time if the noncustodial parent can demonstrate that the specific goals and expectations set by the court in Subsection (5) have been accomplished.

Amended by Chapter 430, 2022 General Session

**30-3-35 Minimum schedule for parent-time for a child five to 18 years old.**

- (1) As used in this section, "weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.
- (2) The parent-time schedule in this section applies to a child who is five to 18 years old.
- (3) If the parties do not agree to a parent-time schedule for a child described in Subsection (2), the following schedule is considered the minimum parent-time to which the noncustodial parent is entitled to the child:
- (a)

- (i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending at 8:30 p.m.; or
  - (ii) at the election of the noncustodial parent, one weekday to be specified by the noncustodial parent or the court:
    - (A) beginning at the time that the child's school is regularly dismissed and ending at 8:30 p.m.; or
    - (B) if school is not in session, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning at 9 a.m. and ending at 8:30 p.m.;
- (b)
- (i) beginning on the first weekend after entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Sunday at 7 p.m.; or
  - (ii) at the election of the noncustodial parent and beginning on the first weekend after the entry of the decree, alternating weekends:
    - (A) beginning at the time that the child's school is regularly dismissed on Friday and ending on Sunday at 7 p.m.; or
    - (B) if school is not in session, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning on Friday at 9 a.m. and ending on Sunday at 7 p.m.;
- (c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (13); and
- (d) extended parent-time with the child when school is not in session for summer break in accordance with Subsection (4).
- (4)
- (a) For extended parent-time with the child under Subsection (3)(d) and at the election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent-time with the child, which may be consecutive, when school is not in session for summer break.
  - (b) For the four weeks of extended parent-time for a noncustodial parent under Subsection (4)(a):
    - (i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and
    - (ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.
  - (c) A custodial parent is entitled to uninterrupted parent-time with the child for two weeks, which may be consecutive, when school is not in session for summer break.
- (5)
- (a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of extended parent-time for summer break under Subsection (4).
  - (b) For the notification requirement under Subsection (5)(a):
    - (i) in odd-numbered years:
      - (A) the noncustodial parent shall provide notice to the custodial parent by May 1; and
      - (B) the custodial parent shall provide notice to the noncustodial parent by May 15; and
    - (ii) in even-numbered years:
      - (A) the custodial parent shall provide notice to the noncustodial parent by May 1; and
      - (B) the noncustodial parent shall provide notice to the custodial parent by May 15.
  - (c)

- (i) If a parent fails to provide a notification within the time periods described in Subsection (5)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.
  - (ii) If both parents fail to provide notice within the time periods described in Subsection (5)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.
  - (d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection (4)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended parent-time.
- (6)
- (a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.
  - (b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.
- (7)
- (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:
    - (i) the holiday schedule for Mother's Day or Father's Day under Subsection (13);
    - (ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (4) and takes the child away from that parent's residence during the uninterrupted extended parent-time;
    - (iii) the holiday schedule for any holiday under Subsection (13) that is not Father's Day, Mother's Day, or the child's birthday;
    - (iv) extended parent-time under Subsection (4); and
    - (v) the schedule for weekday or weekend parent-time.
  - (b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.
- (8) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the child by 7 p.m.
- (9) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.
- (10) If there is more than one child and the children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children's schools are dismissed for the holiday and ending the evening before any child returns to school.
- (11)
- (a) Telephone contact shall be at reasonable hours and for a reasonable duration.
  - (b)
    - (i) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration.

(ii) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

- (A) the best interests of the child;
- (B) each parent's ability to handle any additional expenses for virtual parent-time; and
- (C) any other factors the court considers material.

(c) Virtual parent-time supplements, but does not replace, in-person parent-time.

(12) If there is a child five to 18 years old and a child under five years old and both children are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the children so that parent-time is uniform based on a schedule under this section.

(13) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the day before school resumes.	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday.	Even years	Odd years

	(2) Holiday ends at 7 p.m. on the day before school resumes.		
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent granted the holiday in the order.	All years if custodial parent is the mother or other parent granted the holiday in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent granted the holiday in the order.	All years if custodial parent is the father or other parent granted the holiday in the order.
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years
Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Halloween	(1) Holiday begins on October 31st or the day that Halloween is	Even years	Odd years

traditionally celebrated in the local community:

- (a) at the time that school is dismissed; or
  - (b) at 4 p.m. if there is no school.
- (2) Holiday ends at 9 p.m. on the same day the holiday begins.

Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years
Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the night before school resumes.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. on the day on that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends at 7 p.m. on the night before school resumes.	Even years	Odd years
Day of Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years

Repealed and Re-enacted by Chapter 471, 2022 General Session

**30-3-35.1 Optional schedule for parent-time for a child five to 18 years old.**

- (1) As used in this section, "weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

- (2)
  - (a) The optional parent-time schedule in this section applies to a child who is five to 18 years old.
  - (b) The optional parent-time schedule in this section is 145 overnights.
  - (c) Any impact on child support shall be consistent with joint physical custody, as defined in Section 78B-12-102.
- (3) The parents and the court may consider the increased parent-time schedule in this section as a minimum parent-time schedule when the parties agree or the noncustodial parent can demonstrate:
  - (a) the noncustodial parent has been actively involved in the child's life;
  - (b) the parties can communicate effectively regarding the child or the noncustodial parent has a plan to accomplish effective communications regarding the child;
  - (c) the noncustodial parent has the ability to facilitate the increased parent-time;
  - (d) the increased parent-time would be in the best interest of the child; and
  - (e) any other factor the court considers relevant.
- (4) In determining whether a noncustodial parent has been actively involved in the child's life, the court shall consider:
  - (a) demonstrated responsibility in caring for the child;
  - (b) involvement in childcare;
  - (c) presence or volunteer efforts in the child's school and at extracurricular activities;
  - (d) assistance with the child's homework;
  - (e) involvement in preparation of meals, bath time, and bedtime for the child;
  - (f) bonding with the child; and
  - (g) any other factor the court considers relevant.
- (5) In determining whether a noncustodial parent has the ability to facilitate the increased parent-time, the court shall consider:
  - (a) the geographic distance between the residences of the parents and the distance between the parents' residences and the child's school;
  - (b) the noncustodial parent's ability to assist with after school care;
  - (c) the health of the child and the noncustodial parent in accordance with Subsection 30-3-10(6);
  - (d) flexibility of employment or another schedule of the noncustodial parent;
  - (e) ability to provide appropriate playtime with the child;
  - (f) history and ability of the noncustodial parent to implement a flexible schedule for the child;
  - (g) physical facilities of the noncustodial parent's residence; and
  - (h) any other factor the court considers relevant.
- (6) If the parties agree or the court enters an order for the optional parent-time schedule under this section, a parenting plan in compliance with Sections 30-3-10.7 through 30-3-10.10 shall be filed with any order incorporating the optional parent-time schedule described in Subsection (7).
- (7) The following schedule is considered the optional parent-time to which the noncustodial parent is entitled to the child:
  - (a)
    - (i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending the following day upon delivering the child to school or at 8 a.m. if there is no school; or
    - (ii) at the election of the noncustodial parent, one weekday specified by the noncustodial parent or the court:
      - (A) beginning at the time the child's school is regularly dismissed until the following day upon delivering the child to school or at 8 a.m. if there is no school; or

- (B) if there is no school, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning at 8 a.m. and ending on the following day upon delivering the child to school or at 8 a.m. if there is no school;
  - (b)
    - (i) beginning the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school; or
    - (ii) at the election of the noncustodial parent, beginning the first weekend after the entry of the decree, alternating weekends:
      - (A) beginning at the time the child's school is regularly dismissed on Friday and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school; or
      - (B) if there is no school, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning on Friday at 9 a.m. and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school;
  - (c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (16); and
  - (d) extended parent-time with the child when school is not in session for summer break in accordance with Subsection (8).
- (8)
- (a) For extended parent-time with the child under Subsection (7)(d) and at the election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent-time with the child, which may be consecutive, when school is not in session for summer break.
  - (b) For the four weeks of extended parent-time for a noncustodial parent under Subsection (8)(a):
    - (i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and
    - (ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.
  - (c) A custodial parent is entitled to uninterrupted parent-time with the child for two weeks, which may be consecutive, when school is not in session for summer break.
- (9)
- (a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of parent-time for summer break under Subsection (8).
  - (b) For the notification requirement under Subsection (9)(a):
    - (i) in odd-numbered years:
      - (A) the noncustodial parent shall provide notice to the custodial parent by May 1; and
      - (B) the custodial parent shall provide notice to the noncustodial parent by May 15; and
    - (ii) in even-numbered years:
      - (A) the custodial parent shall provide notice to the noncustodial parent by May 1; and
      - (B) the noncustodial parent shall provide notice to the custodial parent by May 15.
  - (c)
    - (i) If a parent fails to provide a notification within the time periods described in Subsection (9)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.
    - (ii) If both parents fail to provide notice within the time periods described in Subsection (9)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection (8)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended parent-time.

(10)

- (a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.
- (b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(11)

- (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:
  - (i) the holiday schedule for Mother's Day or Father's Day under Subsection (16);
  - (ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (8) and takes the child away from that parent's residence during the uninterrupted extended parent-time;
  - (iii) the holiday schedule for any holiday under Subsection (16) that is not Father's Day, Mother's Day, or the child's birthday;
  - (iv) extended parent-time under Subsection (8); and
  - (v) the schedule for weekday or weekend parent-time.
- (b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

(12) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the child by 7 p.m.

(13) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.

(14) If there is more than one child and the children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children's schools are dismissed for the holiday and ending the evening before any child returns to school.

(15) If there is a child five to 18 years old and a child under five years old and both children are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the children so that parent-time is uniform based on a schedule under this section.

(16) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child;	Odd years	Even years

(b) the time that school is regularly dismissed; or  
 (c) 6 p.m. at the election of the parent granted the holiday.  
 (2) Holiday ends:  
 (a) upon delivering of the child to school on the day following Dr. Martin Luther King Jr. Day; or  
 (b) at 8 a.m. on the day following Dr. Martin Luther King Jr. Day if there is no school.

President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the day following President's Day; or (b) at 8 a.m. on the day following President's Day if there is no school.	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends: (a) upon delivering the child to school on the day following the end of spring break; or (b) at 8 a.m. on the day following the end of spring break if there is no school.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the day following Memorial Day; or	Even years	Odd years

	(b) at 8 a.m. on the day following Memorial Day if there is no school.		
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent designated in the order.	All years if custodial parent is the mother or other parent designated in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent designated in the order.	All years if custodial parent is the father or other parent designated in the order.
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years
Labor Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the day following Labor Day; or (b) at 8 a.m. on the day following Labor Day if there is no school.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends:	Odd years	Even years

	(a) upon delivering the child to school on the day following the end of fall break; or (b) at 8 a.m. on the day following the end of fall break if there is no school.		
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years
Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the Monday following Thanksgiving; or (b) at 8 a.m. on the Monday following Thanksgiving if there is no school.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m.; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m.	Even years	Odd years

(2) Holiday ends upon delivering the child to school on the day that school resumes after the winter break.

Day of Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years

Repealed and Re-enacted by Chapter 471, 2022 General Session

**30-3-35.2 Equal parent-time schedule.**

- (1)
  - (a) A court may order the equal parent-time schedule described in this section if the court determines that:
    - (i) the equal parent-time schedule is in the child's best interest;
    - (ii) each parent has been actively involved in the child's life; and
    - (iii) each parent can effectively facilitate the equal parent-time schedule.
  - (b) To determine whether each parent has been actively involved in the child's life, the court shall consider:
    - (i) each parent's demonstrated responsibility in caring for the child;
    - (ii) each parent's involvement in child care;
    - (iii) each parent's presence or volunteer efforts in the child's school and at extracurricular activities;
    - (iv) each parent's assistance with the child's homework;
    - (v) each parent's involvement in preparation of meals, bath time, and bedtime for the child;
    - (vi) each parent's bond with the child; and
    - (vii) any other factor the court considers relevant.
  - (c) To determine whether each parent can effectively facilitate the equal parent-time schedule, the court shall consider:
    - (i) the geographic distance between the residence of each parent and the distance between each residence and the child's school;
    - (ii) each parent's ability to assist with the child's after school care;
    - (iii) the health of the child and each parent, consistent with Subsection 30-3-10(6);
    - (iv) the flexibility of each parent's employment or other schedule;
    - (v) each parent's ability to provide appropriate playtime with the child;
    - (vi) each parent's history and ability to implement a flexible schedule for the child;
    - (vii) physical facilities of each parent's residence; and
    - (viii) any other factor the court considers relevant.
- (2)
  - (a) If the parties agree to or the court orders the equal parent-time schedule described in this section, a parenting plan in accordance with Sections 30-3-10.7 through 30-3-10.10 shall be filed with an order incorporating the equal parent-time schedule.
  - (b) An order under this section shall result in 182 overnights per year for one parent, and 183 overnights per year for the other parent.

- (c) Under the equal parent-time schedule, neither parent is considered to have the child the majority of the time for the purposes of Subsection 30-3-10.3(4) or 30-3-10.9(5)(c)(ii).
- (d) Child support for the equal parent-time schedule shall be consistent with Section 78B-12-208.
- (e)
  - (i) A court shall determine which parent receives 182 overnights and which parent receives 183 overnights for parent-time.
  - (ii) For the purpose of calculating child support under Section 78B-12-208, the amount of time to be spent with the parent who has the lower gross monthly income is considered 183 overnights, regardless of whether the parent receives 182 overnights or 183 overnights under Subsection (2)(e)(i).
- (3)
  - (a) Unless the parents agree otherwise and subject to a holiday, the equal parent-time schedule is as follows:
    - (i) one parent shall exercise parent-time starting Monday morning and ending Wednesday morning;
    - (ii) the other parent shall exercise parent-time starting Wednesday morning and ending Friday morning; and
    - (iii) each parent shall alternate weeks exercising parent-time starting Friday morning and ending Monday morning.
  - (b) The child exchange shall take place:
    - (i) at the time the child's school begins; or
    - (ii) if school is not in session, at 9 a.m.
- (4)
  - (a) The parents may create a holiday schedule.
  - (b) If the parents are unable to create a holiday schedule under Subsection (4)(a), the court shall:
    - (i) order the holiday schedule described in Section 30-3-35; and
    - (ii) designate which parent shall exercise parent-time for each holiday described in Section 30-3-35.
- (5)
  - (a) Each year, a parent may designate two consecutive weeks to exercise uninterrupted parent-time during the summer when school is not in session.
  - (b)
    - (i) One parent may make a designation at any time and the other parent may make a designation after May 1.
    - (ii) A parent shall make a designation at least 30 days before the day on which the designated two-week period begins.
  - (c) The court shall designate which parent may make the earlier designation described in Subsection (5)(b)(i) for an even numbered year with the other parent allowed to make the earlier designation in an odd numbered year.
  - (d) The two consecutive weeks described in Subsection (5)(a) take precedence over all holidays except for Mother's Day and Father's Day.

Enacted by Chapter 399, 2021 General Session

**30-3-35.5 Minimum schedule for parent-time for child under five years old.**

- (1) The parent-time schedule in this section applies to a child who is younger than five years old.

- (2) If the parties do not agree to a parent-time schedule, the schedules in Subsections (3) through (8) are considered the minimum parent-time to which the noncustodial parent is entitled to the child.
- (3) For a child who is younger than five months old, the noncustodial parent is entitled to:
  - (a) three two-hour visits every week; and
  - (b) two hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection (15).
- (4) For a child who is at least five months old but younger than nine months old, the noncustodial parent is entitled to:
  - (a) three three-hour visits every week; and
  - (b) two hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection (15).
- (5) For a child who is at least nine months old but younger than 12 months old, the noncustodial parent is entitled to the child:
  - (a) one eight-hour visit every week;
  - (b) one three-hour visit every week; and
  - (c) eight hours for each holiday granted to the noncustodial parent in accordance with the holiday schedule under Subsection (15).
- (6) For a child who is at least 12 months old but younger than 18 months old, the noncustodial parent is entitled to:
  - (a) one three-hour visit every week;
  - (b) one eight-hour visit on alternating weekends to be specified by the noncustodial parent or court;
  - (c) an overnight visit on opposite weekends from Subsection (6)(b) beginning at 6 p.m. on Friday and ending at noon on Saturday; and
  - (d) eight hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection (15).
- (7) For a child who is at least 18 months old but younger than three years old, the noncustodial parent is entitled to:
  - (a) one weekday evening to be specified by the noncustodial parent or the court:
    - (i) beginning at 5:30 p.m. and ending at 8:30 p.m.; or
    - (ii) if the child is being cared for during the day outside the child's regular place of residence and with advance notice to the custodial parent, beginning at the time that the child is picked up from the caregiver and ending at 8:30 p.m.;
  - (b) beginning on the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending at 7 p.m. on Sunday;
  - (c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (15); and
  - (d) extended parent-time for two one-week periods, separated by at least four weeks, at the option of the noncustodial parent, as follows:
    - (i) one week of uninterrupted parent-time for the noncustodial parent; and
    - (ii) one week of interrupted parent-time where the custodial parent may have an equal amount of weekday parent-time as the noncustodial parent on the same day on which the noncustodial parent is granted weekday parent-time under Subsection (7)(a).
- (8) For a child who is at least three years old but younger than five years old, the noncustodial parent is entitled to:
  - (a) one weekday evening to be specified by the noncustodial parent or the court:
    - (i) beginning at 5:30 p.m. and ending at 8:30 p.m.; or

- (ii) if the child is being cared for during the day outside the child's regular place of residence and with advance notice to the custodial parent, beginning at the time that the child is picked up from the caregiver and ending at 8:30 p.m.;
- (b) beginning on the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending at 7 p.m. on Sunday;
- (c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (15); and
- (d) extended parent-time for two two-week periods, separated by at least four weeks, at the option of the noncustodial parent, as follows:
  - (i) two weeks of uninterrupted parent-time, which may be consecutive, for the noncustodial parent; and
  - (ii) two weeks of interrupted parent-time, which may be consecutive, where the custodial parent may have an equal amount of weekday parent-time as the noncustodial parent on the same day on which the noncustodial parent is granted weekday parent-time under Subsection (8)(a).
- (9) For a child who is at least 18 months old but younger than five years old, the custodial parent is entitled to one week of uninterrupted extended parent-time.
- (10)
  - (a) For a child who is nine months old or older, the noncustodial parent shall have at least two times a week:
    - (i) brief telephone contact at reasonable hours and for a reasonable duration; and
    - (ii) virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, at reasonable hours and for reasonable duration.
  - (b) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:
    - (i) the best interests of the child;
    - (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
    - (iii) any other factors the court considers material.
  - (c) Virtual parent-time supplements, but does not replace, in-person parent-time.
- (11) For a child who is younger than nine months old, unless the parents agree otherwise, parent-time should take place in the home of the custodial parent, an established child-care setting, or other environment familiar to the child.
- (12)
  - (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:
    - (i) the holiday schedule for Mother's Day or Father's Day under Subsection (15);
    - (ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (7)(d), (8)(d), or (9) and takes the child away from that parent's residence during the uninterrupted extended parent-time;
    - (iii) the holiday schedule for any holiday under Subsection (15) that is not Father's Day, Mother's Day, or the child's birthday;
    - (iv) extended parent-time under Subsection (7)(d), (8)(d), or (9); and
    - (v) the schedule for weekday or weekend parent-time.
  - (b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

- (13) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.
- (14) A parent shall notify the other parent at least 30 days in advance of the parent's plans for the exercise of extended parent-time under Subsection (7)(d), (8)(d), or (9).
- (15) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins on Friday at: (a) 9 a.m. if the parent is available to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Dr. Martin Luther King Jr. Day.	Odd years	Even years
President's Day	(1) Holiday begins on Friday at: (a) 9 a.m. if the parent is available to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on President's Day.	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Memorial Day	(1) Holiday begins on Friday at: (a) 9 a.m. if the parent is available to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Memorial Day.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent designated in the order.	All years if custodial parent is the mother or other parent designated in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m.	All years if noncustodial parent is	All years if custodial parent is the father or other

	(2) Holiday ends on Father's Day at 7 p.m.	the father or other parent designated in the order.	parent designated in the order.
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years
Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. if the parent is available to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Labor Day.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years
Thanksgiving	(1) Holiday begins at 6 p.m. on the day that school dismisses for Thanksgiving.	Even years	Odd years

	(2) Holiday ends at 7 p.m. on day before school resumes.		
Winter Break (First Half)	(1) Holiday begins at 6 p.m. on the day on that school dismisses for winter break. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends at 7 p.m. on the night before school resumes.	Even years	Odd years
Day of Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years

Repealed and Re-enacted by Chapter 471, 2022 General Session

**30-3-36 Special circumstances.**

- (1) When parent-time has not taken place for an extended period of time and the child lacks an appropriate bond with the noncustodial parent, both parents shall consider the possible adverse effects upon the child and gradually reintroduce an appropriate parent-time plan for the noncustodial parent.
- (2) For emergency purposes, whenever the child travels with either parent, all of the following will be provided to the other parent:
  - (a) an itinerary of travel dates;
  - (b) destinations;
  - (c) places where the child or traveling parent can be reached; and
  - (d) the name and telephone number of an available third person who would be knowledgeable of the child's location.
- (3) Unchaperoned travel of a child under the age of five years is not recommended.

Amended by Chapter 255, 2001 General Session

**30-3-37 Relocation.**

- (1) For purposes of this section, "relocation" means moving 150 miles or more from the residence of the other parent.
- (2) The relocating parent shall provide 60 days advance written notice of the intended relocation to the other parent. The written notice of relocation shall contain statements affirming the following:
  - (a) the parent-time provisions in Subsection (6) or a schedule approved by both parties will be followed; and
  - (b) neither parent will interfere with the other's parental rights pursuant to court ordered parent-time arrangements, or the schedule approved by both parties.

- (3) The court shall, upon motion of any party or upon the court's own motion, schedule a hearing with notice to review the notice of relocation and parent-time schedule as provided in Section 30-3-35 and make appropriate orders regarding the parent-time and costs for parent-time transportation.
- (4) In a hearing to review the notice of relocation, the court shall, in determining if the relocation of a custodial parent is in the best interest of the child, consider any other factors that the court considers relevant to the determination. If the court determines that relocation is not in the best interest of the child, and the custodial parent relocates, the court may order a change of custody.
- (5) If the court finds that the relocation is in the best interest of the child, the court shall determine the parent-time schedule and allocate the transportation costs that will be incurred for the child to visit the noncustodial parent. In making its determination, court shall consider:
  - (a) the reason for the parent's relocation;
  - (b) the additional costs or difficulty to both parents in exercising parent-time;
  - (c) the economic resources of both parents; and
  - (d) other factors the court considers necessary and relevant.
- (6) Unless otherwise ordered by the court, upon the relocation, as defined in Subsection (1), of one of the parties the following schedule shall be the minimum requirements for parent-time for children 5 to 18 years of age:
  - (a) in years ending in an odd number, the child shall spend the following holidays with the noncustodial parent:
    - (i) Thanksgiving holiday beginning Wednesday until Sunday; and
    - (ii) Spring break, if applicable, beginning the last day of school before the holiday until the day before school resumes;
  - (b) in years ending in an even number, the child shall spend the following holidays with the noncustodial parent:
    - (i) the entire winter school break period; and
    - (ii) the Fall school break beginning the last day of school before the holiday until the day before school resumes;
  - (c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive weeks. The children should be returned to the custodial home no later than seven days before school begins; however, this week shall be counted when determining the amount of parent-time to be divided between the parents for the summer or off-track period; and
  - (d) one weekend per month, at the option and expense of the noncustodial parent.
- (7) The court may also set a parent-time schedule for children under the age of five. The schedule shall take into consideration the following:
  - (a) the age of the child;
  - (b) the developmental needs of the child;
  - (c) the distance between the parents' homes;
  - (d) the travel arrangements and cost;
  - (e) the level of attachment between the child and the noncustodial parent; and
  - (f) any other factors relevant to the best interest of the child.
- (8) The noncustodial parent's monthly weekend entitlement is subject to the following restrictions.
  - (a) If the noncustodial parent has not designated a specific weekend for parent-time, the noncustodial parent shall receive the last weekend of each month unless a holiday assigned to the custodial parent falls on that particular weekend. If a holiday assigned to the custodial parent falls on the last weekend of the month, the noncustodial parent shall be entitled to the next to the last weekend of the month.

- (b) If a noncustodial parent's extended parent-time or parent-time over a holiday extends into or through the first weekend of the next month, that weekend shall be considered the noncustodial parent's monthly weekend entitlement for that month.
- (c) If a child is out of school for teacher development days or snow days after the children begin the school year, or other days not included in the list of holidays in Subsection (6) and those days are contiguous with the noncustodial parent's monthly weekend parent-time, those days shall be included in the weekend parent-time.
- (9) The custodial parent is entitled to all parent-time not specifically allocated to the noncustodial parent.
- (10) In the event finances and distance preclude the exercise of minimum parent-time for the noncustodial parent during the school year, the court should consider awarding more time for the noncustodial parent during the summer time if it is in the best interests of the children.
- (11) Upon the motion of any party, the court may order uninterrupted parent-time with the noncustodial parent for a minimum of 30 days during extended parent-time, unless the court finds it is not in the best interests of the child. If the court orders uninterrupted parent-time during a period not covered by this section, it shall specify in its order which parent is responsible for the child's travel expenses.
- (12) Unless otherwise ordered by the court the relocating party shall be responsible for all the child's travel expenses relating to Subsections (6)(a) and (b) and 1/2 of the child's travel expenses relating to Subsection (6)(c), provided the noncustodial parent is current on all support obligations. If the noncustodial parent has been found in contempt for not being current on all support obligations, the noncustodial parent shall be responsible for all of the child's travel expenses under Subsection (6), unless the court rules otherwise. Reimbursement by either responsible party to the other for the child's travel expenses shall be made within 30 days of receipt of documents detailing those expenses.
- (13) The court may apply this provision to any preexisting decree of divorce.
- (14) Any action under this section may be set for an expedited hearing.
- (15) A parent who fails to comply with the notice of relocation in Subsection (2) shall be in contempt of the court's order.

Amended by Chapter 354, 2020 General Session

**30-3-38 Expedited Parent-time Enforcement Program.**

- (1) There is established an Expedited Parent-time Enforcement Program in the third judicial district to be administered by the Administrative Office of the Courts.
- (2) As used in this section:
  - (a) "Mediator" means a person who:
    - (i) is qualified to mediate parent-time disputes under criteria established by the Administrative Office of the Courts; and
    - (ii) agrees to follow billing guidelines established by the Administrative Office of the Courts and this section.
  - (b) "Services to facilitate parent-time" or "services" means services designed to assist families in resolving parent-time problems through:
    - (i) counseling;
    - (ii) supervised parent-time;
    - (iii) neutral drop-off and pick-up;
    - (iv) educational classes; and
    - (v) other related activities.

- (3)
- (a) If a parent files a motion in the third district court alleging that court-ordered parent-time rights are being violated, the clerk of the court, after assigning the case to a judge, shall refer the case to the administrator of this program for assignment to a mediator, unless a parent is incarcerated or otherwise unavailable. Unless the court rules otherwise, a parent residing outside of the state is not unavailable. The director of the program for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.
  - (b) Upon receipt of a case, the mediator shall:
    - (i) meet with the parents to address parent-time issues within 15 days of the motion being filed;
    - (ii) assess the situation;
    - (iii) facilitate an agreement on parent-time between the parents; and
    - (iv) determine whether a referral to a service provider under Subsection (3)(c) is warranted.
  - (c) While a case is in mediation, a mediator may refer the parents to a service provider designated by the Department of Human Services for services to facilitate parent-time if:
    - (i) the services may be of significant benefit to the parents; or
    - (ii)
      - (A) a mediated agreement between the parents is unlikely; and
      - (B) the services may facilitate an agreement.
  - (d) At any time during mediation, a mediator shall terminate mediation and transfer the case to the administrator of the program for referral to the judge or court commissioner to whom the case was assigned under Subsection (3)(a) if:
    - (i) a written agreement between the parents is reached; or
    - (ii) the parents are unable to reach an agreement through mediation and:
      - (A) the parents have received services to facilitate parent-time;
      - (B) both parents object to receiving services to facilitate parent-time; or
      - (C) the parents are unlikely to benefit from receiving services to facilitate parent-time.
  - (e) Upon receiving a case from the administrator of the program, a judge or court commissioner may:
    - (i) review the agreement of the parents and, if acceptable, sign it as an order;
    - (ii) order the parents to receive services to facilitate parent-time;
    - (iii) proceed with the case; or
    - (iv) take other appropriate action.
- (4)
- (a) If a parent makes a particularized allegation of physical or sexual abuse of a child who is the subject of a parent-time order against the other parent or a member of the other parent's household to a mediator or service provider, the mediator or service provider shall immediately report that information to:
    - (i) the judge assigned to the case who may immediately issue orders and take other appropriate action to resolve the allegation and protect the child; and
    - (ii) the Division of Child and Family Services within the Department of Human Services in the manner required by Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports.
  - (b) If an allegation under Subsection (4)(a) is made against a parent with parent-time rights or a member of that parent's household, parent-time by that parent shall, pursuant to an order of the court, be supervised until:
    - (i) the allegation has been resolved; or
    - (ii) a court orders otherwise.

- (c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to mediate parent-time problems and a service provider may continue to provide services to facilitate parent-time unless otherwise ordered by a court.
- (5)
- (a) The Department of Human Services may contract with one or more entities in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide:
    - (i) services to facilitate parent-time;
    - (ii) case management services; and
    - (iii) administrative services.
  - (b) An entity who contracts with the Department of Human Services under Subsection (5)(a) shall:
    - (i) be qualified to provide one or more of the services listed in Subsection (5)(a); and
    - (ii) agree to follow billing guidelines established by the Department of Human Services and this section.
- (6)
- (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:
    - (i) reduced to a sum certain;
    - (ii) divided equally between the parents; and
    - (iii) charged against each parent taking into account the ability of that parent to pay under billing guidelines adopted in accordance with this section.
  - (b) A judge may order a parent to pay an amount in excess of that provided for in Subsection (6)(a) if the parent:
    - (i) failed to participate in good faith in mediation or services to facilitate parent-time; or
    - (ii) made an unfounded assertion or claim of physical or sexual abuse of a child.
  - (c)
    - (i) The cost of mediation and services to facilitate parent-time may be charged to parents at periodic intervals.
    - (ii) Mediation and services to facilitate parent-time may only be terminated on the ground of nonpayment if both parents are delinquent.
- (7)
- (a) The Judicial Council may make rules to implement and administer the provisions of this program related to mediation.
  - (b) The Department of Human Services may make rules to implement and administer the provisions of this program related to services to facilitate parent-time.
- (8)
- (a) The Administrative Office of the Courts shall adopt outcome measures to evaluate the effectiveness of the mediation component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.
  - (b) The Department of Human Services shall adopt outcome measures to evaluate the effectiveness of the services component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.
  - (c) The Administrative Office of the Courts and the Department of Human Services may adopt joint outcome measures and file joint reports to satisfy the requirements of Subsections (7)(a) and (b).
- (9) The Department of Human Services shall, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, apply for federal funds as available.

Amended by Chapter 335, 2022 General Session

**30-3-39 Mediation program.**

- (1) There is established a mandatory domestic mediation program to help reduce the time and tensions associated with obtaining a divorce.
- (2) If, after the filing of an answer to a complaint of divorce, there are any remaining contested issues, the parties shall participate in good faith in at least one session of mediation. This requirement does not preclude the entry of pretrial orders before mediation takes place.
- (3) The parties shall use a mediator qualified to mediate domestic disputes under criteria established by the Judicial Council in accordance with Section 78B-6-205.
- (4) Unless otherwise ordered by the court or the parties agree upon a different payment arrangement, the cost of mediation shall be divided equally between the parties.
- (5) The director of dispute resolution programs for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.
- (6) Mediation shall be conducted in accordance with the Utah Rules of Court-Annexed Alternative Dispute Resolution.

Amended by Chapter 3, 2008 General Session

**Chapter 4  
Separate Maintenance**

**30-4-1 Action by spouse -- Grounds.**

Whenever a resident of this state:

- (1) deserts a spouse without good and sufficient cause;
- (2) being of sufficient ability to provide support, neglects or refuses to properly provide for and suitably maintain that spouse;
- (3) having property within this state and the spouse being a resident of this state, so deserts or neglects or refuses to provide such support; or
- (4) where a married person without that person's fault lives separate and apart from that spouse, the district court shall, on the filing of a complaint, allot, assign, set apart and decree as alimony the use of the real and personal estate or earnings of the deserting spouse as the court may determine appropriate. During the pendency of the action, the court may require the deserting spouse to pay a sum as provided in Section 30-3-3.

Amended by Chapter 137, 1993 General Session

**30-4-2 Procedure -- Venue.**

In all actions brought hereunder the proceedings and practice shall be the same as near as may be as in actions for divorce; but the action may be brought in any county where the wife or the husband may be found.

Amended by Chapter 122, 1977 General Session

**30-4-3 Custody and maintenance of children -- Property and debt division -- Support payments.**

- (1) In all actions brought under this chapter the court may by order or decree:

- (a) provide for the care, custody, and maintenance of the minor children of the parties and may determine with which of the parties the children or any of them shall remain;
- (b)
  - (i) provide for support of either spouse and the support of the minor children remaining with that spouse;
  - (ii) provide how and when support payments shall be made; and
  - (iii) provide that either spouse have a lien upon the property of the other to secure payment of the support or maintenance obligation;
- (c) award to either spouse the possession of any real or personal property of the other spouse or acquired by the spouses during the marriage; or
- (d) pursuant to Section 15-4-6.5:
  - (i) specify which party is responsible for the payment of joint debts, obligations, or liabilities contracted or incurred by the parties during the marriage;
  - (ii) require the parties to notify respective creditors or obligees regarding the court's division of debts, obligations, and liabilities and regarding the parties' separate, current addresses; and
  - (iii) provide for the enforcement of these orders.
- (2) The orders and decrees under this section may be enforced by sale of any property of the spouse or by contempt proceedings or otherwise as may be necessary.
- (3) The court may change the support or maintenance of a party from time to time according to circumstances, and may terminate altogether any obligation upon satisfactory proof of voluntary and permanent reconciliation. An order or decree of support or maintenance shall in every case be valid only during the joint lives of the husband and wife.

Amended by Chapter 257, 1991 General Session

#### **30-4-4 Restraining disposal of property.**

At the time of filing the complaint mentioned in Section 30-4-1, or at any time subsequent thereto, the plaintiff may procure from the court, and file with the county recorder of any county in the state in which the defendant may own real estate, an order enjoining and restraining the defendant from disposing of or encumbering the same or any portion thereof, describing such real estate with reasonable certainty, and from the time of filing such order the property described therein shall be charged with a lien in favor of the plaintiff to the extent of any judgment which may be rendered in the action.

No Change Since 1953

#### **30-4-5 Rights and remedies -- Imprisonment of husband or wife.**

Like rights and remedies shall be extended to either husband or wife on the imprisonment of the other in the state prison under a sentence of one year or more when suitable provision has not been made for the support of the one not so imprisoned.

Amended by Chapter 122, 1977 General Session

## **Chapter 4a Nunc Pro Tunc Orders**

**30-4a-1 Authority of court.**

A court having jurisdiction may, upon its finding of good cause and giving of such notice as may be ordered, enter an order nunc pro tunc in a matter relating to marriage, divorce, legal separation or annulment of marriage.

Enacted by Chapter 118, 1983 General Session

**Chapter 5  
Grandparents**

**30-5-1 Definitions.**

As used in this act:

- (1) "District court" means the district court with proper jurisdiction over the grandchild.
- (2) "Grandchild" means the child with respect to whom a grandparent is seeking visitation rights under this chapter.
- (3) "Grandparent" means an individual whose child, either by blood, marriage, or adoption, is the parent of the grandchild.

Amended by Chapter 48, 2020 General Session

**30-5-2 Visitation rights of grandparents.**

- (1) In accordance with the provisions and requirements of this section:
  - (a) a grandparent has standing to bring an action requesting visitation in district court by petition; and
  - (b) a grandparent may file a petition for visitation rights in the juvenile court or district court where a divorce proceeding or other proceeding involving custody and visitation issues is pending.
- (2)
  - (a) In accordance with Section 80-2a-201, it is the public policy of this state that a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's children.
  - (b) A court shall presume that a parent's decision in regard to grandparent visitation is in the best interest of the parent's child.
- (3) A court may find the presumption in Subsection (2)(b) rebutted if the grandparent, by clear and convincing evidence, establishes that:
  - (a) the grandparent has filled the role of custodian or caregiver to the grandchild that:
    - (i) is in a manner akin to a parent; and
    - (ii) the loss of the relationship between the grandparent and the grandchild would cause substantial harm to the grandchild; or
  - (b) both parents are unfit or incompetent in a manner that causes potential harm to the grandchild.
- (4)
  - (a) If the court finds the presumption in Subsection (2)(b) is rebutted, the court may consider whether grandparent visitation is in the best interest of the grandchild.
  - (b) If the court considers whether grandparent visitation is in the best interest of the child, the court shall take into account the totality of the circumstances, including:
    - (i) the reasonableness of the parent's decision to deny grandparent visitation;

- (ii) the age of the grandchild;
  - (iii) the death or unavailability of a parent; and
  - (iv) if the grandchild is 14 years old or older, the grandchild's desires regarding visitation after the court inquires of the grandchild.
- (5) If the court finds the presumption in Subsection (2)(b) is rebutted and grandparent visitation is in the best interest of the grandchild, the court may issue an order for grandparent visitation.
- (6) The adoption of a grandchild by the grandchild's stepparent does not diminish or alter visitation rights previously ordered under this section.
- (7) On the petition of a grandparent or the legal custodian of a grandchild the court may, after a hearing, modify an order regarding grandparent visitation if:
- (a) the circumstances of the grandchild, the grandparent, or the custodian have materially and substantially changed since the entry of the order to be modified, or the order has become unworkable or inappropriate under existing circumstances; and
  - (b) the court determines that a modification is appropriate based upon the factors set forth in Subsections (3) and (4).
- (8) A grandparent may petition the court to remedy a parent's wrongful noncompliance with a visitation order.

Amended by Chapter 335, 2022 General Session

## **Chapter 5a**

### **Custody and Visitation for Individuals Other than Parents Act**

#### **Part 1**

#### **General Provisions**

#### **30-5a-101 Title.**

This chapter is known as the "Custody and Visitation for Individuals Other than Parents Act."

Amended by Chapter 48, 2020 General Session

#### **30-5a-102 Definitions.**

As used in this chapter:

- (1) "Individual other than a parent" means an individual who is not a parent and is related to the child by marriage or blood, including:
- (a) siblings;
  - (b) aunts;
  - (c) uncles;
  - (d) grandparents; or
  - (e) current or former step-parents, or any of the individuals described in Subsections (1)(a) through (d) in a step relationship to the child.
- (2) "Parent" means a biological or adoptive parent.

Amended by Chapter 48, 2020 General Session

#### **30-5a-103 Custody and visitation for individuals other than a parent.**

- (1)
  - (a) In accordance with Section 80-2a-201, it is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's children.
  - (b) There is a rebuttable presumption that a parent's decisions are in the child's best interests.
- (2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to an individual other than a parent who, by clear and convincing evidence, establishes that:
  - (a) the individual has intentionally assumed the role and obligations of a parent;
  - (b) the individual and the child have formed a substantial emotional bond and created a parent-child type relationship;
  - (c) the individual substantially contributed emotionally or financially to the child's well being;
  - (d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;
  - (e) the continuation of the relationship between the individual and the child is in the child's best interest;
  - (f) the loss or cessation of the relationship between the individual and the child would substantially harm the child; and
  - (g) the parent:
    - (i) is absent; or
    - (ii) is found by a court to have abused or neglected the child.
- (3) A proceeding under this chapter may be commenced by filing a verified petition, or petition supported by an affidavit, in the juvenile court if a matter is pending, or in the district court in the county where the child:
  - (a) currently resides; or
  - (b) lived with a parent or an individual other than a parent who acted as a parent within six months before the commencement of the action.
- (4) A proceeding under this chapter may be filed in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court involving custody of or visitation with a child.
- (5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information as set forth in Section 78B-13-209.
- (6) A proceeding under this chapter may not be filed against a parent who is actively serving outside the state in any branch of the military.
- (7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the rules of civil procedure on all of the following:
  - (a) the child's biological, adopted, presumed, declarant, and adjudicated parents;
  - (b) any individual who has court-ordered custody or visitation rights;
  - (c) the child's guardian;
  - (d) the guardian ad litem, if one has been appointed;
  - (e) an individual or agency that has physical custody of the child or that claims to have custody or visitation rights; and
  - (f) any other individual or agency that has previously appeared in any action regarding custody of or visitation with the child.
- (8) The court may order a custody evaluation to be conducted in any action brought under this chapter.

- (9) The court may enter temporary orders in an action brought under this chapter pending the entry of final orders.
- (10) Except as provided in Subsection (11), a court may not grant custody of a child under this section to an individual who is not the parent of the child and who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:
- (a) child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114;
  - (b) child abuse homicide, as described in Section 76-5-208;
  - (c) child kidnapping, as described in Section 76-5-301.1;
  - (d) human trafficking of a child, as described in Section 76-5-308.5;
  - (e) sexual abuse of a minor, as described in Section 76-5-401.1;
  - (f) rape of a child, as described in Section 76-5-402.1;
  - (g) object rape of a child, as described in Section 76-5-402.3;
  - (h) sodomy on a child, as described in Section 76-5-403.1;
  - (i) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated sexual abuse of a child, as described in Section 76-5-404.3;
  - (j) sexual exploitation of a minor, as described in Section 76-5b-201;
  - (k) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or
  - (l) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).
- (11)
- (a) As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).
  - (b) An individual described in Subsection (10) may only be considered for custody of a child if the following criteria are met by clear and convincing evidence:
    - (i) the individual is a relative, as defined in Section 80-3-102, of the child;
    - (ii) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;
    - (iii) during the 10 years before the day on which the individual files a petition with the court seeking custody the individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;
    - (iv) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;
    - (v) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the child currently or at any time in the future when considering all of the following:
      - (A) the child's age;
      - (B) the child's gender;
      - (C) the child's development;
      - (D) the nature and seriousness of the disqualifying offense;
      - (E) the preferences of a child 12 years old or older;
      - (F) any available assessments, including custody evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and
      - (G) any other relevant information;
    - (vi) the individual can provide evidence of the following:
      - (A) the relationship with the child is of long duration;
      - (B) that an emotional bond exists with the child; and

- (C) that custody by the individual who has committed the disqualifying offense ensures the best interests of the child are met;
- (vii)
  - (A) there is no other responsible relative known to the court who has or likely could develop an emotional bond with the child and does not have a disqualifying offense; or
  - (B) if there is a responsible relative known to the court that does not have a disqualifying offense, Subsection (11)(d) applies; and
- (viii) that the continuation of the relationship between the individual with the disqualifying offense and the child could not be sufficiently maintained through any type of visitation if custody were given to the relative with no disqualifying offense described in Subsection (11)(d).
- (c) The individual with the disqualifying offense bears the burden of proof regarding why placement with that individual is in the best interest of the child over another responsible relative or equally situated individual who does not have a disqualifying offense.
- (d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to the court who does not have a disqualifying offense:
  - (i) preference for custody is given to a relative who does not have a disqualifying offense; and
  - (ii) before the court may place custody with the individual who has the disqualifying offense over another responsible, willing, and able relative:
    - (A) an impartial custody evaluation shall be completed; and
    - (B) a guardian ad litem shall be assigned.
- (12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

Amended by Chapter 185, 2022 General Session  
Amended by Chapter 335, 2022 General Session  
Amended by Chapter 430, 2022 General Session

### **30-5a-104 Exceptions.**

This chapter may not be used to seek, obtain, maintain or continue custody of, or visitation with, a child who has been relinquished for adoption, or adopted pursuant to an order of a court of competent jurisdiction.

Enacted by Chapter 108, 2009 General Session

## **Chapter 8 Uniform Premarital Agreement Act**

### **30-8-1 Title.**

This act shall be known as the "Uniform Premarital Agreement Act."

Enacted by Chapter 105, 1994 General Session

### **30-8-2 Definitions.**

As used in this chapter:

- (1) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.
- (2) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

Enacted by Chapter 105, 1994 General Session

**30-8-3 Writing -- Signature required.**

A premarital agreement shall be in writing and signed by both parties. It is enforceable without consideration.

Amended by Chapter 297, 2011 General Session

**30-8-4 Content.**

- (1) Parties to a premarital agreement may contract with respect to:
  - (a) the rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;
  - (b) the right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;
  - (c) the disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;
  - (d) the modification or elimination of spousal support;
  - (e) the ownership rights in and disposition of the death benefit from a life insurance policy;
  - (f) the choice of law governing the construction of the agreement, except that a court of competent jurisdiction may apply the law of the legal domicile of either party, if it is fair and equitable; and
  - (g) any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.
- (2) The right of a child to support, health and medical provider expenses, medical insurance, and child care coverage may not be affected by a premarital agreement.

Enacted by Chapter 105, 1994 General Session

**30-8-5 Effect of marriage -- Amendment -- Revocation.**

- (1) A premarital agreement becomes effective upon marriage.
- (2) After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

Enacted by Chapter 105, 1994 General Session

**30-8-6 Enforcement.**

- (1) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:
  - (a) that party did not execute the agreement voluntarily; or
  - (b) the agreement was fraudulent when it was executed and, before execution of the agreement, that party:

- (i) was not provided a reasonable disclosure of the property or financial obligations of the other party insofar as was possible;
  - (ii) did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and
  - (iii) did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.
- (2) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.
- (3) An issue of fraud of a premarital agreement shall be decided by the court as a matter of law.

Enacted by Chapter 105, 1994 General Session

**30-8-7 Enforcement -- Void marriage.**

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

Enacted by Chapter 105, 1994 General Session

**30-8-8 Limitations of actions.**

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement.

Enacted by Chapter 105, 1994 General Session

**30-8-9 Application and construction.**

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

Enacted by Chapter 105, 1994 General Session