

Effective 5/14/2019

Renumbered 9/1/2024

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.