

**Effective 5/8/2018**

**Effective until 5/1/2024**

**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.