

Effective 5/12/2015

30-3-35.1 Optional schedule for parent-time for children 5 to 18 years of age.

- (1) The optional parent-time schedule in this section applies to children 5 to 18 years of age. This schedule is 145 overnights. Any impact on child support shall be consistent with Subsection 78B-12-102(14).
- (2) The parents and the court may consider the following increased parent-time schedule as a minimum when the parties agree or the noncustodial parent can demonstrate the following:
 - (a) the noncustodial parent has been actively involved in the child's life;
 - (b) the parties are able to 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.
- (3) 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 day care;
 - (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.
- (4) 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, consistent with Subsection 30-3-10(4);
 - (d) flexibility of employment or other schedule of the parent;
 - (e) ability to provide appropriate playtime with the child;
 - (f) history and ability of the 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.
- (5) Any elections required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order. Elections may only be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.
- (6) If the parties agree or the court enters an order for the optional parent-time schedule as set forth in 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 following optional parent-time schedule:
 - (a) The noncustodial parent or the court may specify one weekday for parent-time. If no day is specified, weekday parent-time shall be on Wednesday from 5:30 p.m. until the following day when delivering the child to school, or until 8 a.m., if there is no school the following day. Once the election of the weekday is made, it may only be changed in accordance with Subsection (5). At the election of the noncustodial parent, weekday parent-time may commence:
 - (i) from the time the child's school is regularly dismissed; or

- (ii) if school is not in session, and the parent is available to be with the child, at approximately 8 a.m., accommodating the custodial parent's work schedule.
 - (b) Beginning on the first weekend after the entry of the decree, the noncustodial parent shall be entitled to alternating weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until Monday when delivering the child to school, or until 8 a.m. if there is no school on Monday. At the election of the noncustodial parent, weekend parent-time may commence:
 - (i) from the time the child's school is regularly dismissed on Friday; or
 - (ii) if school is not in session, and the parent is available to be with the child, at approximately 8 a.m. on Friday, accommodating the custodial parent's work schedule.
 - (c) The provisions of Subsections 30-3-35(2)(f) through (o) shall be incorporated here and constitute the parent-time schedule with the exception that all instances that require the noncustodial parent to return the child at any time after 6 p.m. be changed so that the noncustodial parent is required to return the child to school the next morning or at 8 a.m., if there is no school.
- (7) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent may pick up the child if the custodial parent is aware of the identity of the individual, and if the noncustodial parent will be with the child by 7 p.m.
- (8) Weekends include any "snow" days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.
- (9) Holidays include any "snow" days, teacher development days after the child begins the school year, or other days when school is not scheduled, contiguous to the holiday period, and take precedence over weekend parent-time. Changes may not be made to the regular rotation of the alternating weekend parent-time schedule.
- (a) If a holiday falls on a school day, the noncustodial parent shall be responsible for the child's attendance at school for that school day.
 - (b) If a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period.
 - (c) At the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is dismissed at the beginning of the holiday weekend or, if school is not in session, and if the noncustodial parent is available to be with the child, parent-time over a scheduled holiday weekend may begin at approximately 8 a.m., accommodating the custodial parent's work schedule, unless the court directs the application of Subsection (6)(a).
- (10) Birthdays take precedence over holidays and extended parent-time, except Mother's Day and Father's Day. Birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time is out of town for the uninterrupted extended parent-time. At the discretion of the noncustodial parent, other siblings may be taken along for birthdays.
- (11) Notwithstanding Subsection (9)(b), the Halloween holiday may not be extended beyond the hours designated in Subsection 30-3-35(2)(g)(vi).
- (12) If there are children aged 5 to 18 and children under the age of five who 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 minor children so that parent-time is uniform based on a schedule pursuant to this section.

Enacted by Chapter 18, 2015 General Session