

Effective 9/1/2024

**Part 1
General Provisions**

Effective 9/1/2024

81-9-101 Definitions for chapter.

As used in this chapter:

- (1) "Abuse" means the same as that term is defined in Section 80-1-102.
- (2)
 - (a) "Custodial responsibility" means all powers and duties relating to caretaking authority and decision-making authority for a minor child.
 - (b) "Custodial responsibility" includes physical custody, legal custody, parenting time, right to access, parent-time, and authority to grant limited contact with a minor child.
- (3) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (4) "Joint legal custody" means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified.
- (5) "Joint physical custody" means the minor child stays with each parent overnight for more than 30% of the year and both parents contribute to the expenses of the minor child in addition to paying child support.
- (6)
 - (a) "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 minor child.
 - (b) "Parenting functions" include:
 - (i) maintaining a loving, stable, consistent, and nurturing relationship with the minor child;
 - (ii) attending to the daily needs of the minor 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 minor child and that are within the social and economic circumstances of the particular family;
 - (iii) attending to adequate education for the minor child, including remedial or other education essential to the best interest of the minor child;
 - (iv) assisting the minor child in developing and maintaining appropriate interpersonal relationships;
 - (v) exercising appropriate judgment regarding the minor child's welfare, consistent with the minor child's developmental level and family social and economic circumstances; and
 - (vi) providing for the financial support of the minor child.
- (7)
 - (a) "Parenting plan" means a plan for parenting a minor child.
 - (b) "Parenting plan" includes the allocation of parenting functions that are incorporated in any final decree or decree of modification including an action for dissolution of marriage, annulment, legal separation, or paternity.
- (8) "Protective order" means:
 - (a) a civil protective order, as that term is defined in Section 78B-7-102;
 - (b) an ex parte civil protective order, as that term is defined in Section 78B-7-102; or
 - (c) a foreign protection order, as that term is defined in Section 78B-7-302.
- (9) "Psychological maltreatment" means a repeated pattern or extreme incident of caretaker behavior that:

- (a) intentionally thwarts a minor child's basic psychological needs, including physical and psychological safety, cognitive stimulation, and respect;
 - (b) conveys that a minor child is worthless, defective, or expendable; and
 - (c) may terrorize a minor child.
- (10) "Service member" means a member of a uniformed service.
- (11) "Sexual abuse" means the same as that term is defined in Section 80-1-102.
- (12) "Supervised parent-time" means parent-time that requires the noncustodial parent to be accompanied during parent-time by an individual approved by the court.
- (13) "Surrogate care" means care by any individual other than the parent of the minor child.
- (14) "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.
- (15) "Uninterrupted time" means parent-time exercised by one parent without interruption at any time by the presence of the other parent.
- (16) "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 minor child or between a minor child and the custodial parent when the minor child is staying with the noncustodial parent.

Renumbered and Amended by Chapter 366, 2024 General Session

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81-9-102 Expedited Parent-time Enforcement Program.

- (1) 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.
- (2) The Administrative Office of the Courts shall administer an Expedited Parent-time Enforcement Program in the third judicial district.
- (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.

- (b) Unless the court rules otherwise, a parent residing outside of the state is not unavailable.
 - (c) 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.
 - (d) 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)(e) is warranted.
 - (e) While a case is in mediation, a mediator may refer the parents to a service provider designated by the Department of Health and 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.
 - (f) At any time during mediation, a mediator shall terminate mediation and transfer the case to the administrator of the program for referral to the court 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.
 - (g) Upon receiving a case from the administrator of the program, a court 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 minor 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 court, which may immediately issue orders and take other appropriate action to resolve the allegation and protect the minor child; and
 - (ii) the Division of Child and Family Services within the Department of Health and 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 Health and 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 Health and 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 Health and 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 court 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 minor 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 Health and Human Services may make rules to implement and administer the provisions of this program related to services to facilitate parent-time.
- (8)
- (a)
 - (i) The Administrative Office of the Courts shall adopt outcome measures to evaluate the effectiveness of the mediation component of this program.
 - (ii) The Administrative Office of the Courts shall provide progress reports to the Judiciary Interim Committee as requested by the committee.
 - (b)
 - (i) The Department of Health and Human Services shall adopt outcome measures to evaluate the effectiveness of the services component of this program.
 - (ii) The Department of Health and Human Services shall provide progress reports to the Judiciary Interim Committee as requested by the committee.
 - (c) The Administrative Office of the Courts and the Department of Health and Human Services may adopt joint outcome measures and file joint reports to satisfy the requirements of Subsections (8)(a) and (b).
- (9) The Department of Health and Human Services shall, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, apply for federal funds as available.

Renumbered and Amended by Chapter 366, 2024 General Session

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81-9-103 Mandatory parenting course for parties in a divorce or parentage action.

- (1) The Judicial Council shall approve and implement:
 - (a) a mandatory parenting course in all judicial districts for married parties in a divorce action determining issues of child custody and parent-time; and
 - (b) a mandatory parenting course in all judicial districts for unmarried parties in a parentage action determining issues of child custody and parent-time.
- (2) The Judicial Council shall adopt rules to implement and administer the mandatory parenting courses described in Subsection (1).
- (3) The mandatory parenting courses shall educate and sensitize parties to the needs of the parties' minor child during and after the court process, including instructing the parties:
 - (a) about the impact of the court process, and its outcome, on:
 - (i) the minor child;
 - (ii) the family relationship; and
 - (iii) the financial responsibilities of the parties to the minor child; and
 - (b) that domestic violence has a harmful effect on a minor child and family relationships.
- (4)
 - (a) The mandatory parenting course may be provided through live instruction, video instruction, or an online provider.
 - (b) The online and video options under Subsection (4)(a) must be formatted as interactive presentations that ensure active participation and learning by the party.
- (5)
 - (a) The Administrative Office of the Courts shall administer the mandatory parenting courses, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and organize the program in each of Utah's judicial districts.
 - (b) The contracts shall provide for the recoupment of administrative expenses through the costs charged to individual parties as described in Subsection (7).
- (6) A certificate of completion constitutes evidence to the court of completion of a parenting course under this section by the parties.
- (7)
 - (a) Each party shall pay the cost of the parenting course to the independent contractor providing the course at the time and place of the course.
 - (b) A fee of \$8 shall be collected, as part of a parenting course fee paid by each participant, and deposited in the Children's Legal Defense Account, described in Section 51-9-408.
 - (c) Each party who is unable to pay the cost of a parenting course may attend the parenting course, without payment, upon a prima facie showing of indigency as evidenced by an affidavit of indigency filed in the court in accordance with Section 78A-2-302.
 - (d) The Administrative Office of the Courts shall use appropriations from the Children's Legal Defense Account to reimburse an independent contractor for the costs of a party who is unable to pay for a parenting course under Subsection (7)(c).
- (8) The Administrative Office of the Courts shall:
 - (a) adopt a program to evaluate the effectiveness of the mandatory parenting courses; and
 - (b) provide progress reports to the Judiciary Interim Committee if requested.

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81-9-104 Expert evidence -- Violence or abuse findings -- Child relationship and reunification.

(1) As used in this section:

(a)

(i) "Child custody proceeding" means a civil proceeding between the parents of a minor child that involves the care or custody of the minor child, including proceedings involving:

(A) divorce;

(B) separation;

(C) parent-time;

(D) paternity;

(E) child support; or

(F) legal or physical custody of the minor child.

(ii) "Child custody proceeding" does not include:

(A) a child protective, abuse, or neglect proceeding;

(B) a juvenile justice proceeding; or

(C) a child placement proceeding in which a state, local, or tribal government, a designee of such a government, or any contracted child welfare agency or child protective services agency of such a government is a party to the proceeding.

(b) "Forensic" means professional activities undertaken pursuant to a court order or for use in litigation, including the evaluation or treatment of a parent, minor child, or other individual who is involved in a child custody proceeding.

(c) "Reunification treatment" means a treatment or therapy aimed at reuniting or reestablishing a relationship between a minor child and an estranged or rejected parent or other family member of the minor child.

(2) In a child custody proceeding, if a parent is alleged to have committed domestic violence or abuse, including sexual abuse:

(a) the court may admit expert evidence from a court-appointed or outside professional relating to alleged domestic violence or abuse only if the professional possesses demonstrated expertise and adequate experience in working with victims of domestic violence or abuse, including sexual abuse, that is not solely of a forensic nature; and

(b) in making a finding regarding an allegation of domestic violence or abuse, including sexual abuse, the court shall consider evidence of past domestic violence, sexual violence, or abuse committed by the accused parent, including:

(i) any past or current protective order against the accused parent; or

(ii) any charge, arrest, or conviction of the accused parent for domestic violence, sexual violence, or abuse.

(3) Subsection (2) does not preclude the court from:

(a) admitting expert evidence, subject to rules of evidence, from a court-appointed or outside professional relating to issues other than alleged domestic violence or abuse; or

(b) admitting evidence, subject to rules of evidence, that is discovered or otherwise becomes available through treatment or therapy after the court enters an order of custody or parent-time.

(4) As part of a child custody proceeding, a court may not, solely in order to improve a deficient relationship between a parent and a minor child, including in the context of reunification treatment:

(a) remove the minor child from a parent or litigating party:

(i) who is competent and not physically or sexually abusive; and

(ii) with whom the minor child is bonded; or

- (b) restrict reasonable contact between the minor child and a parent or litigating party:
 - (i) who is competent and not physically or sexually abusive; and
 - (ii) with whom the minor child is bonded.
- (5) As part of a child custody proceeding where the court has reasonable cause to believe that there is domestic violence, child abuse, or an ongoing risk to the child:
 - (a) a court may not order a reunification treatment or program unless there is generally accepted proof:
 - (i) of the physical and psychological safety, effectiveness, and therapeutic value of the reunification treatment; and
 - (ii) that the reunification treatment is not associated with causing harm to a child;
 - (b) a court may not order a reunification treatment that is predicated on cutting off a minor child from a parent:
 - (i) who is competent and not physically or sexually abusive; and
 - (ii) with whom the minor child is bonded;
 - (c) any order to remediate the resistance of a minor child to have contact with a violent or abusive parent shall primarily address the behavior of that parent or the contributions of that parent to the resistance of the minor child; and
 - (d) any order to a parent who meets the criteria in Subsections (5)(b)(i) and (ii), and that requires the parent to take steps to potentially improve the minor child's relationship with a violent or abusive parent, shall:
 - (i) prioritize the minor child's physical and psychological safety and needs; and
 - (ii) be narrowly tailored to address specific behavior.
- (6) Subject to Subsection (4), Subsection (5) does not preclude the court from ordering mental health treatment by a licensed mental health professional that is generally accepted by and meets the standards of practice for mental health professions if:
 - (a) the court does not have reasonable cause to believe that there is domestic violence, child abuse, or an ongoing risk to the child; and
 - (b) the treatment does not pose a risk to the child or parent.

Enacted by Chapter 453, 2024 General Session