

Effective 9/1/2024

Part 2
Custody and Parent-time Between Parents

81-9-201 Definitions for part.

Reserved.

Enacted by Chapter 366, 2024 General Session

81-9-202 Advisory guidelines for a custody and parent-time arrangement.

- (1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304, the following advisory guidelines are suggested to govern a custody and parent-time arrangement between parents.
- (2) A parent-time schedule mutually agreed upon by both parents is preferable to a court-imposed solution.
- (3) A parent-time schedule shall be used to maximize the continuity and stability of the minor child's life.
- (4) Each parent shall give special consideration to make the minor child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the minor child or in the life of either parent which may inadvertently conflict with the parent-time schedule.
- (5)
 - (a) The court shall determine the responsibility for the pick up, delivery, and return of the minor child when the parent-time order is entered.
 - (b) The court may change the responsibility described in Subsection (5)(a) at any time a subsequent modification is made to the parent-time order.
 - (c) If the noncustodial parent will be providing transportation, the custodial parent shall:
 - (i) have the minor child ready for parent-time at the time the minor child is to be picked up; and
 - (ii) be present at the custodial home or make reasonable alternate arrangements to receive the minor child at the time the minor child is returned.
 - (d) If the custodial parent will be transporting the minor child, the noncustodial parent shall:
 - (i) be at the appointed place at the time the noncustodial parent is to receive the minor child; and
 - (ii) have the minor 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 minor child.
- (6) A parent may not interrupt regular school hours for a school-age minor child for the exercise of parent-time.
- (7) The court may:
 - (a) make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents; and
 - (b) increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections 81-9-302 and 81-9-304.
- (8) 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.
- (9) A parent may not withhold parent-time or child support due to the other parent's failure to comply with a court-ordered parent-time schedule.
- (10)

- (a) 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 minor child is participating or being honored.
 - (b) The noncustodial parent is entitled to attend and participate fully in the functions described in Subsection (10)(a).
 - (c) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records.
 - (d) A parent shall immediately notify the other parent in the event of a medical emergency.
- (11) 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.
- (12)
- (a) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the minor child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available.
 - (b) If the parents cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available by taking into consideration:
 - (i) the best interests of the minor child;
 - (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
 - (iii) any other factors the court considers material.
- (13)
- (a) Parental care is presumed to be better care for the minor child than surrogate care.
 - (b) The court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the minor child, to provide the child care.
 - (c) Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.
- (14) Each parent shall:
- (a) provide all surrogate care providers with the name, current address, and telephone number of the other parent; and
 - (b) 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.
- (15)
- (a) Each parent is entitled to an equal division of major religious holidays celebrated by the parents.
 - (b) The parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the minor child on the religious holiday.
- (16) If the minor child is on a different parent-time schedule than a sibling, based on Sections 81-9-302 and 81-9-304, 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.
- (17)
- (a) 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 81-10-201 or through court order obtained pursuant to this part.
 - (b) Service members shall ensure their family care plan reflects orders and agreements entered and filed pursuant to Chapter 10, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.

- (18) A parent shall immediately notify the other parent if:
- (a) the parent resides with an individual or provides an individual with access to the minor child; and
 - (b) the parent knows that the individual:
 - (i) is required to register as a sex offender, a kidnap offender, or a child abuse offender for an offense committed against a minor child under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry; or
 - (ii) has been convicted of:
 - (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-109.4, 76-5-114, or 76-5-208;
 - (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses, other than an offense under Section 76-5-417, 76-5-418, or 76-5-419;
 - (C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
 - (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or
 - (E) an offense that is substantially similar to an offense under Subsections (18)(b)(ii)(A) through (D).
- (19)
- (a) For emergency purposes, whenever the minor child travels with a parent, the parent shall provide the following information to the other parent:
 - (i) an itinerary of travel dates;
 - (ii) destinations;
 - (iii) places where the minor child or traveling parent can be reached; and
 - (iv) the name and telephone number of an available third person who would be knowledgeable of the minor child's location.
 - (b) Unchaperoned travel of a minor child under the age of five years is not recommended.

Amended by Chapter 426, 2025 General Session

81-9-203 Custody and parent-time proceedings -- Requirements for parenting plan.

- (1) In a custody or parent-time proceeding that is not a divorce action, the court may require the parents to attend the mandatory educational course described in Section 81-4-105.
- (2)
- (a) In a proceeding between parents regarding the custody or parent-time for a minor child, the parent shall file and serve a proposed parenting plan at the time of the filing of the parent's original petition or at the time of filing the parent's answer or counterclaim.
 - (b) In a proceeding in which a parent seeks to modify custody provisions or a parenting plan, the parent shall file the proposed parenting plan with the petition to modify or the answer or counterclaim to the petition to modify.
 - (c) A parent who desires joint legal custody shall file a proposed parenting plan in accordance with this section.
- (3) If a parent files a proposed parenting plan in compliance with this section, the parent may move the court for an order of default to adopt the plan if the other parent fails to file a proposed parenting plan as required by this section.
- (4) A parent may file and serve an amended proposed parenting plan according to the Utah Rules of Civil Procedure.

- (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)
 - (a) Both parents may submit a parenting plan which has been agreed upon.
 - (b) The parents shall attach a verified statement to the parenting plan that is signed by both parents.
- (7) If the parents file inconsistent parenting plans, the court may appoint a guardian ad litem to represent the best interests of the minor child, who may, if necessary, file a separate parenting plan reflecting the best interests of the minor child.
- (8)
 - (a) If a parent is a service member, the parenting plan shall be consistent with Subsection (16).
 - (b) If a parent becomes a service member after a parenting plan is adopted, the parents shall amend the existing parenting plan as soon as practical to comply with Subsection (16).
- (9) The objectives of a parenting plan are to:
 - (a) provide for the minor child's physical care;
 - (b) maintain the minor child's emotional stability;
 - (c) provide for the minor child's changing needs as the minor 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 minor child consistent with the definitions outlined in this chapter;
 - (e) minimize the minor child's exposure to harmful parental conflict;
 - (f) encourage the parents, where appropriate, to meet the responsibilities to their minor child through agreements in the parenting plan rather than relying on judicial intervention; and
 - (g) protect the best interests of the minor child.
- (10)
 - (a) The parenting plan shall contain:
 - (i) provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the minor child;
 - (ii) provisions addressing notice and parent-time responsibilities in the event of the relocation of a party; and
 - (iii) a process for resolving disputes, unless precluded or limited by statute.
 - (b) A dispute resolution process under Subsection (10)(a)(iii) may include:
 - (i) counseling;
 - (ii) mediation or arbitration by a specified individual or agency; or
 - (iii) court action.
 - (c) In the dispute resolution process under Subsection (10)(b):
 - (i) preference shall be given to the provisions in the parenting plan;
 - (ii) 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;
 - (iii) a written record shall be prepared of any agreement reached in counseling or mediation and provided to each party;
 - (iv) if arbitration becomes necessary, a written record shall be prepared and a copy of the arbitration award shall be provided to each party;
 - (v) 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;
 - (vi) the district court has the right of review from the dispute resolution process; and
 - (vii) the provisions of this Subsection (10)(c) shall be set forth in any final decree or order.

(11)

- (a) Subject to the other provisions of this Subsection (11), the parenting plan shall allocate decision-making authority to one or both parties regarding the minor child's education, healthcare, and religious upbringing.
- (b) The parties may incorporate an agreement related to the care and growth of the minor child in these specified areas or in other areas into the plan that are consistent with parenting functions and the criteria outlined in Subsection (9).
- (c) Regardless of the allocation of decision-making in the parenting plan, a parent may make emergency decisions affecting the health or safety of the minor child.
- (d) A minor 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 minor child will attend school;
 - (ii) which parent has authority to make education decisions for the minor child if the parents cannot agree; and
 - (iii) whether one or both parents have access to the minor child during school and authority to check the minor child out of school.
- (e) If an education provision is not included in the parenting plan:
 - (i) a parent with sole physical custody shall make the decisions listed in Subsection (11)(d);
 - (ii) in the event of joint physical custody when one parent has custody a majority of the time as described in Subsection 81-9-205(10):
 - (A) the parent having the minor child the majority of the time shall make the decisions listed in Subsections (11)(d)(i) and (ii); and
 - (B) both parents with joint physical custody shall have access to the minor 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 (11)(d)(i) and (ii) are made; and
 - (B) both parents with joint physical custody shall have access to the minor child during school and authority to check the minor child out of school.
- (12) Each parent may make decisions regarding the day-to-day care and control of the minor child while the minor child is residing with that parent.
- (13) 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.
- (14) The parenting plan shall include a residential schedule that designates in which parent's home a minor child shall reside on given days of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions.

(15)

- (a) 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.
- (b) Failure to comply with a provision of the parenting plan or a child support order may result in a finding of contempt of court.

(16)

- (a) If a parent is a service member, 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 (16)(a) shall comport substantially with the requirements of an agreement made pursuant to Section 81-10-201.

Amended by Chapter 426, 2025 General Session

81-9-204 Custody and parent-time of a minor child -- Custody factors -- Preferences.

- (1) In a proceeding between parents in which the custody and parent-time of a minor child is at issue, the court shall consider the best interests of the minor child in determining any form of custody and parent-time.
- (2) The court shall determine whether an order for custody or parent-time is in the best interests of the minor child by a preponderance of the evidence.
- (3) In determining any form of custody and parent-time under Subsection (1), the court shall consider:
 - (a) for each parent, and in accordance with Section 81-9-104, evidence of domestic violence, physical abuse, or sexual abuse involving the minor child, the parent, or a household member of the parent;
 - (b) whether the parent has intentionally exposed the minor child to:
 - (i) pornography; or
 - (ii) material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-5c-101; and
 - (c) whether custody and parent-time would endanger the minor child's health or physical or psychological safety.
- (4) In determining the form of custody and parent-time that is in the best interests of the minor child, the court may consider, among other factors the court finds relevant, the following for each parent:
 - (a) evidence of psychological maltreatment;
 - (b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the minor child, including the minor 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 minor child and the other parent, except that, if the court determines that the parent is acting to protect the minor 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) the past conduct and demonstrated moral character of the parent as described in Subsection (9);
 - (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) the parent's reason for having relinquished custody or parent-time in the past;
 - (h) duration and depth of desire for custody or parent-time;
 - (i) the parent's religious compatibility with the minor child;
 - (j) the parent's financial responsibility;
 - (k) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the minor child's best interests;
 - (l) who has been the primary caretaker of the minor child;
 - (m) previous parenting arrangements in which the minor child has been happy and well-adjusted in the home, school, and community;
 - (n) the relative benefit of keeping siblings together;
 - (o) the stated wishes and concerns of the minor child, taking into consideration the minor child's cognitive ability and emotional maturity;
 - (p) the relative strength of the minor child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the minor child; and
 - (q) any other factor the court finds relevant.
- (5)
- (a) A minor 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 minor child be heard and there is no other reasonable method to present the minor child's testimony.
 - (b)
 - (i) The court may inquire and take into consideration the minor child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the minor child's custody or parent-time otherwise.
 - (ii) The desires of a minor child who is 14 years old or older shall be given added weight, but is not the single controlling factor.
 - (c)
 - (i) If an interview with a minor child is conducted by the court in accordance with Subsection (5) (b), the interview shall be conducted by the court 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 minor child is the only method to ascertain the minor 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 minor 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 minor child at issue.
 - (c) Nothing in this section may be construed to apply to adoption proceedings under Chapter 13, Adoption.
- (7) This section does not establish:
- (a) a preference for either parent solely because of the gender of the parent; or

- (b) a preference 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 minor child.
- (8) When an issue before the court involves custodial responsibility in the event of a deployment of a parent who is a service member and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 81-10-306 through 81-10-309.
- (9) In considering the past conduct and demonstrated moral standards of each party under Subsection (4)(d) or any other factor a court finds relevant, the court may not:
 - (a)
 - (i) 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 and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, 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
 - (ii) discriminate against a parent because of the parent's status as a:
 - (A) cannabis production establishment agent, as that term is defined in Section 4-41a-102;
 - (B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;
 - (C) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or
 - (D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or
 - (b) discriminate against a parent based upon the parent's agreement or disagreement with a minor child of the couple's:
 - (i) assertion that the minor child's gender identity is different from the minor child's biological sex;
 - (ii) practice of having or expressing a different gender identity than the minor child's biological sex; or
 - (iii) sexual orientation.
- (10)
 - (a) The court shall consider evidence of domestic violence if evidence of domestic violence is presented.
 - (b) The court shall consider as primary, the safety and well-being of the minor child and the parent who experiences domestic violence.
 - (c) A court shall consider an order issued by a court in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or substantiated potential harm to the minor child.
 - (d) 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 81-9-209.
- (11) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the minor child:
 - (a) it is in the best interest of the minor child to have frequent, meaningful, and continuing access to each parent following separation or divorce;
 - (b) each parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's minor child consistent with the minor child's best interests; and
 - (c) it is in the best interest of the minor child to have both parents actively involved in parenting the minor child.

- (12) Notwithstanding any other provision of this chapter, the court may not grant custody or parent-time of a minor child to a parent convicted of a sexual offense, as defined in Section 77-37-2, that resulted in the conception of the minor child unless:
- (a) the nonconvicted biological parent, or the legal guardian of the minor child, consents to custody or parent-time and the court determines it is in the best interest of the minor child to award custody or parent-time to the convicted parent; or
 - (b) after the date of the conviction, the convicted parent and the nonconvicted parent cohabit and establish a mutual custodial environment for the minor child.
- (13) A denial of custody or parent-time under Subsection (12) does not:
- (a) terminate the parental rights of the parent denied parent-time or custody; or
 - (b) affect the obligation of the convicted parent to financially support the minor child.

Amended by Chapter 426, 2025 General Session

81-9-205 Presumption of joint legal custody -- Joint custody factors -- Order for joint custody.

- (1) The court may order joint legal custody or joint physical custody or both joint legal custody and joint physical custody if:
- (a) one or both parents have filed a parenting plan as described in Section 81-9-203; and
 - (b) the court determines that, by a preponderance of the evidence, joint legal custody or joint physical custody or both joint legal custody and joint physical custody is in the best interest of the minor child in accordance with Subsection (5) and Section 81-9-204.
- (2)
- (a) There is a rebuttable presumption that joint legal custody is in the best interest of the minor child, except in cases when there is:
 - (i) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the minor child, a parent, or a household member of the parent in accordance with Section 81-9-104;
 - (ii) special physical or mental needs of a parent or minor child, making joint legal custody unreasonable;
 - (iii) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or
 - (iv) any other factor the court considers relevant, including the factors described in Subsection (5) and Section 81-9-204.
 - (b) A presumption for joint legal custody may be rebutted by showing by a preponderance of the evidence that it is not in the best interest of the minor child.
- (3)
- (a) Joint legal custody does not affect the physical custody of the minor child except as specified in the order of joint legal custody.
 - (b) Joint legal custody is not based on awarding equal or nearly equal periods of physical custody of and access to the minor child to each of the parents because the best interest of the minor child often requires that a primary physical residence for the minor child be designated.
 - (c) In ordering joint legal custody, the court:
 - (i) may include an award of exclusive authority by the court to one parent to make specific decisions regarding the minor child; and
 - (ii) is not prohibited from specifying one parent as the primary caretaker and one home as the primary residence of the minor child.
- (4)

- (a) Joint physical custody may result in equal or nearly equal periods of physical custody of and access to the minor child by each of the parents to meet the best interest of the minor child.
 - (b) Joint physical custody may require that a physical residence for the minor child be designated.
 - (c) In ordering joint physical custody, the court is not prohibited from specifying one parent as the primary caretaker and one home as the primary residence of the minor child.
- (5) In addition to the factors described in Section 81-9-204, the court shall consider the following factors in determining whether joint legal custody, joint physical custody, or both joint legal custody and joint physical custody, is in the best interest of the minor child:
- (a) whether the physical, psychological, and emotional needs and development of the minor child will benefit from joint legal custody or joint physical custody or both joint legal custody and joint physical custody;
 - (b) the ability of the parents to give first priority to the welfare of the minor child and reach shared decisions in the minor 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 minor child and the other parent, except that, if the court determines that the parent is acting to protect the minor child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration;
 - (d) whether both parents participated in raising the minor child before the divorce;
 - (e) the geographical proximity of the homes of the parents;
 - (f) the preference of the minor child if the minor 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 joint legal custody and joint physical custody;
 - (g) the maturity of the parents and their willingness and ability to protect the minor 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.
- (6) 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.
- (7) An order of joint legal custody or joint physical custody shall provide terms the court determines appropriate, which may include specifying:
- (a) the county of residence of the minor child, until altered by further order of the court, or the custodian who has the sole legal right to determine the residence of the minor child;
 - (b) that the parents shall exchange information concerning the health, education, and welfare of the minor child, and where possible, confer before making decisions concerning any of these areas;
 - (c) the rights and duties of each parent regarding the minor child's present and future physical care, support, and education;
 - (d) provisions to minimize disruption of the minor child's attendance at school and other activities, the minor child's daily routine, and the minor child's 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.
- (8) An order of joint legal custody or joint physical custody shall require the parenting plan contain a dispute resolution procedure that the parties agree to use:

- (a) in accordance with Subsection 81-9-203(10); and
 - (b) 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 minor child.
- (9) The court shall, where possible, include in the order the terms of the parenting plan provided in accordance with Section 81-9-203.
- (10) Any parental rights not specifically addressed by the court order may be exercised by the parent having physical custody of the minor child the majority of the time.
- (11) The appointment of joint legal or physical custodians does not impair or limit the authority of the court to order support of the child, as defined in Section 81-6-101, including payments by one custodian to the other.
- (12) An order of joint legal custody, in itself, is not grounds for modifying a support order.
- (13) 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 minor child.

Renumbered and Amended by Chapter 366, 2024 General Session

81-9-206 Determination of parent-time schedule -- Parent-time factors.

- (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 Part 3, Parent-time Schedules.
- (2) There is a presumption that the advisory guidelines described in Section 81-9-202 and the parent-time schedules described in Part 3, Parent-time Schedules, are the minimum parent-time to which the noncustodial parent and the minor child are entitled.
- (3) In accordance with Section 81-9-104, when ordering a parent-time schedule a court shall consider:
- (a) evidence of domestic violence, physical abuse, or sexual abuse involving the minor child, a parent, or a household member of the parent; and
 - (b) whether parent-time would endanger the minor child's health or physical or psychological safety.
- (4) A court may consider the following when ordering a parent-time schedule:
- (a) evidence of psychological maltreatment;
 - (b) the distance between the residency of the minor child and the noncustodial parent;
 - (c) the lack of demonstrated parenting skills without safeguards to ensure the minor child's well-being during parent-time;
 - (d) the financial inability of the noncustodial parent to provide adequate food and shelter for the minor child during periods of parent-time;
 - (e) the preference of the minor child if the court determines the minor child is of sufficient maturity;
 - (f) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or an adult corrections facility;
 - (g) shared interests between the minor child and the noncustodial parent;
 - (h) the involvement or lack of involvement of the noncustodial parent in the school, community, religious, or other related activities of the minor child;
 - (i) the availability of the noncustodial parent to care for the minor child when the custodial parent is unavailable to do so because of work or other circumstances;

- (j) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-time;
 - (k) the minimal duration of and lack of significant bonding in the parents' relationship before the conception of the minor child;
 - (l) the parent-time schedule of siblings;
 - (m) the lack of reasonable alternatives to the needs of a nursing minor child; and
 - (nn) any other criteria the court determines relevant to the best interests of the minor child.
- (5) The court shall enter the reasons underlying the court's order for parent-time that:
- (a) incorporates a parent-time schedule described in Section 81-9-302 or 81-9-304; or
 - (b) provides more or less parent-time than a parent-time schedule described in Section 81-9-302 or 81-9-304.
- (6) 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 minor child.
- (7) Once the parent-time schedule has been established, the parties may not alter the parent-time schedule except by mutual consent of the parties or a court order.
- (8)
- (a) If the court orders parent-time and a protective order or stalking injunction is still in place, the court shall consider whether to order the parents to conduct parent-time pick-up and transfer through a third party.
 - (b) The parent who is the stated victim in the protective order or stalking injunction may submit to the court, and the court shall consider, the name of a person considered suitable to act as the third party.
 - (c) 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.
- (9) If there is a protective order, stalking injunction, or the court finds that a parent has committed domestic violence, the court shall:
- (a) consider the impact of domestic violence in awarding parent-time; and
 - (b) make specific findings regarding the award of parent-time.
- (10) Upon a specific finding by the court of the need for peace officer enforcement, the court may include a provision in an order for parent-time that authorizes a peace officer to enforce the order for parent-time.
- (11) When parent-time has not taken place for an extended period of time and the minor child lacks an appropriate bond with the noncustodial parent, both parents shall consider the possible adverse effects upon the minor child and gradually reintroduce an appropriate parent-time plan for the noncustodial parent.

Renumbered and Amended by Chapter 366, 2024 General Session

81-9-207 Supervised parent-time.

- (1) If it is necessary to protect a minor child and there is no less restrictive means reasonably available, and in accordance with Section 81-9-104, a court may order supervised parent-time if the court finds evidence that the minor 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, 76-5-109.4, 76-5-114, and 80-1-102, from the noncustodial parent if left unsupervised with the noncustodial parent.
- (2) If the court finds evidence of domestic violence, child abuse, or an ongoing risk to a child, and orders supervised parent-time, the court shall give preference to supervision by a professional

- individual or private agency trained in child abuse reporting laws, the developmental needs of a child, and the dynamics of domestic violence, child abuse, sexual abuse, and substance abuse.
- (3) If a professional individual or private agency described in Subsection (2) is not available, affordable, or practicable under the circumstances, a court shall give preference to supervision by an individual who is:
 - (a) capable and willing to provide physical and psychological safety and security to the minor child, and to assist in the avoidance and prevention of domestic and family violence; and
 - (b) is trained in child abuse reporting laws, the developmental needs of a child, and the dynamics of domestic violence, child abuse, sexual abuse, and substance abuse.
 - (4) If an individual described in Subsection (2) or (3) is not available, affordable, or practicable under the circumstances, or if the court does not find evidence of domestic violence, child abuse, or an ongoing risk to a minor child, a court may order supervised parent-time that is supervised by an individual who is willing to supervise, and is capable of protecting the minor child from physical or emotional harm, or child abuse, and the court shall give preference to individuals suggested by the parties, including relatives.
 - (5) 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.
 - (6)
 - (a) Except when the court makes a finding that, due to abuse by or the incapacity of the noncustodial parent, supervised parent-time will be necessary indefinitely to ensure the physical or psychological safety and protection of the minor child, 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.
 - (b) The court shall schedule one or more follow-up hearings to revisit the issue of supervised parent-time.
 - (7) 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 as described in Subsection (6) have been accomplished.

Amended by Chapter 284, 2025 General Session

81-9-208 Modification or termination of a custody or parent-time order -- Noncompliance with a parent-time order.

- (1) The court has continuing jurisdiction to make subsequent changes to modify:
 - (a) custody of a minor child if there is a showing of a substantial and material change in circumstances since the entry of the order; and
 - (b) parent-time for a minor child if there is a showing that there is a change in circumstances since the entry of the order.
- (2) A substantial and material change in circumstances under Subsection (1)(a) includes a showing by a parent that the other parent:
 - (a) resides with an individual or provides an individual with access to the minor child; and
 - (b) knows that the individual:
 - (i) is required to register as a sex offender, a kidnap offender, or a child abuse offender for an offense committed against a minor child under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry; or
 - (ii) has been convicted of:

- (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-109.4, 76-5-114, or 76-5-208;
 - (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses, other than an offense under Section 76-5-417, 76-5-418, or 76-5-419;
 - (C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
 - (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or
 - (E) an offense that is substantially similar to an offense under Subsections (2)(b)(ii)(A) through (D).
- (3) 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 there has been a substantial and material change in the circumstances of the minor child or one or both parents or joint legal or physical custodians 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 minor child; and
 - (c)
 - (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 81-9-205(8); 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 81-9-205(13) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.
- (4)
- (a) In determining whether the best interest of a minor 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 described in Sections 81-9-204 and 81-9-205.
 - (b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:
 - (i) a substantial and material 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 minor child.
 - (c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the minor child is thriving, happy, and well-adjusted.
- (5) 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 Section 81-9-204.
- (6) The court may modify the terms and conditions of the existing order in accordance with this chapter and may order the parents to file a parenting plan in accordance with Section 81-9-203.
- (7) 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 81-9-203.
- (8) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are service members, and the service member has not yet been notified

of deployment, the court shall resolve the issue based on the standards in Sections 81-10-306 through 81-10-309.

- (9) If the court finds that an action to modify custody or parent-time 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.
- (10) If a petition to modify 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.
- (11) 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:
 - (a) may award to the prevailing party:
 - (i) actual attorney fees incurred;
 - (ii) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, including:
 - (A) court costs;
 - (B) child care expenses;
 - (C) transportation expenses actually incurred;
 - (D) lost wages, if ascertainable; or
 - (E) counseling for a parent or a minor child if ordered or approved by the court; or
 - (iii) any other appropriate equitable remedy; and
 - (b) shall award reasonable make-up parent-time to the prevailing party, unless make-up parent-time is not in the best interest of the minor child.

Amended by Chapter 426, 2025 General Session

81-9-209 Notice of relocation -- Effect of relocation on parent-time schedule.

- (1) As used in this section, "relocation" means moving 150 miles or more from the residence of the other parent.
- (2) The relocating parent shall provide written notice to the other parent at least 60 days before the day on which the relocating parent intends to relocate.
- (3) The written notice of relocation under Subsection (2) shall contain statements affirming :
 - (a) the parent-time provisions in Subsection (9) or a parent-time schedule approved by both parties will be followed; and
 - (b) that a parent will not interfere with the other's parental rights pursuant to court ordered parent-time arrangements or the parent-time schedule approved by both parties.
- (4) The court shall, upon motion of any party or upon the court's own motion, schedule a hearing with notice to:
 - (a) review the notice of relocation and the relevant parent-time schedule under Section 81-9-302 or 81-9-304; and
 - (b) make appropriate orders regarding the parent-time schedule and costs for parent-time transportation.
- (5) 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 minor child, consider any other factors that the court considers relevant to the determination.
- (6) If the court determines that relocation is not in the best interest of the minor child, and the custodial parent relocates, the court may order a change of custody.

- (7)
- (a) If the court finds that the relocation is in the best interest of the minor child, the court shall determine the parent-time schedule and allocate the transportation costs that will be incurred for the minor child to visit the noncustodial parent.
 - (b) In making a determination under Subsection (7)(a), the court shall consider:
 - (i) the reason for the parent's relocation;
 - (ii) the additional costs or difficulty to both parents in exercising parent-time;
 - (iii) the economic resources of both parents; and
 - (iv) other factors the court considers necessary and relevant.
- (8) 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 regard to the application of this section.
- (9) Unless otherwise ordered by the court, upon the relocation of one of the parties, the following schedule is the minimum parent-time the noncustodial parent is entitled to a minor child who is five to 18 years old:
- (a) in years ending in an odd number, the minor 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 minor 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; and
 - (d) one weekend per month, at the option and expense of the noncustodial parent.
- (10) For extended parent-time under Subsection (9)(c), the minor child should be returned to the custodial home no later than seven days before school begins, except that this week is counted when determining the amount of parent-time to be divided between the parents for the summer or off-track period.
- (11)
- (a) The court may also set a parent-time schedule for a minor child who is younger than five years old.
 - (b) The schedule shall take into consideration the following:
 - (i) the age of the minor child;
 - (ii) the developmental needs of the minor child;
 - (iii) the distance between the parents' homes;
 - (iv) the travel arrangements and cost;
 - (v) the level of attachment between the minor child and the noncustodial parent; and
 - (vi) any other factors relevant to the best interest of the minor child.
- (12) The noncustodial parent's monthly weekend entitlement is subject to the following restrictions.
- (a)
 - (i) 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.
 - (ii) If a holiday assigned to the custodial parent falls on the last weekend of the month, the noncustodial parent is 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 minor child is out of school for teacher development days or snow days after the minor child begins the school year, or other days not included in the list of holidays in Subsection (9) and those days are contiguous with the noncustodial parent's monthly weekend parent-time, those days shall be included in the weekend parent-time.
- (13) The custodial parent is entitled to all parent-time not specifically allocated to the noncustodial parent.
- (14) 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 minor child.
- (15)
- (a) 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 interest of the minor child.
 - (b) If the court orders uninterrupted parent-time during a period not covered by this section, the court shall specify in its order which parent is responsible for the minor child's travel expenses.
- (16)
- (a) Unless otherwise ordered by the court the relocating party shall be responsible for all the minor child's travel expenses relating to Subsections (9)(a) and (b) and 1/2 of the minor child's travel expenses relating to Subsection (9)(c), provided the noncustodial parent is current on all support obligations.
 - (b) If the noncustodial parent has been found in contempt for not being current on all support obligations, the noncustodial parent is responsible for all of the minor child's travel expenses under Subsection (9), unless the court rules otherwise.
 - (c) A responsible party shall make a reimbursement to the other for the minor child's travel expenses within 30 days of receipt of documents detailing those expenses.
- (17) The court may apply this provision to any preexisting decree of divorce.
- (18) Any action under this section may be set for an expedited hearing.
- (19) A parent who fails to comply with the notice of relocation in Subsection (2) is in contempt of the court's order.

Amended by Chapter 426, 2025 General Session