

Effective 9/1/2024

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