

**CUSTODY EVALUATION AND PARENT
COORDINATION**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tim M. Cosgrove

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the Child Custody Evaluation Act and the Parent Coordination Act.

Highlighted Provisions:

This bill:

▶ creates the Child Custody Evaluation Act, which:

- sets standards for education and training of child custody evaluators;
- requires the Administrative Office of the Courts to maintain a list of qualified child custody evaluators;

• requires the court in a divorce, separation, or child custody matter to select an evaluator from the Administrative Office of the Courts' list; and

• allows the court to divide the evaluator's fees equitably between the parties; and

▶ creates the Parent Coordination Act, which:

- sets standards for education and training of parent coordinators;
- requires the Administrative Office of the Courts to maintain a list of qualified parent coordinators;

• sets standards for decision-making responsibilities of parent coordinators;

• requires the court to specify a time period for the parent coordinator; and

• allows the court to divide the coordinator's fees equitably between the parties.

Monies Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 ENACTS:

33 **30-10-101**, Utah Code Annotated 1953

34 **30-10-102**, Utah Code Annotated 1953

35 **30-10-103**, Utah Code Annotated 1953

36 **30-10-104**, Utah Code Annotated 1953

37 **30-10-105**, Utah Code Annotated 1953

38 **30-10-106**, Utah Code Annotated 1953

39 **30-11-101**, Utah Code Annotated 1953

40 **30-11-102**, Utah Code Annotated 1953

41 **30-11-103**, Utah Code Annotated 1953

42 **30-11-104**, Utah Code Annotated 1953

43 **30-11-105**, Utah Code Annotated 1953

44 **30-11-106**, Utah Code Annotated 1953



46 *Be it enacted by the Legislature of the state of Utah:*

47 Section 1. Section **30-10-101** is enacted to read:

48 **CHAPTER 10. CHILD CUSTODY EVALUATION ACT**

49 **30-10-101. Title.**

50 This chapter is known as the "Child Custody Evaluation Act."

51 Section 2. Section **30-10-102** is enacted to read:

52 **30-10-102. Definitions.**

53 As used in this chapter:

54 (1) "Custody evaluation" means a process where information is gathered by a custody
55 evaluator from parties to a divorce, separation, or custody proceeding which is used to provide
56 the court with information it can use to make decisions regarding custody and parenting time
57 arrangements that are in the child's best interest.

58 (2) "Custody evaluator" means a person who performs custody evaluations.

59 (3) "Party" means either the petitioner or respondent, or their respective attorneys, in an
60 action for separation, divorce, or custody of a minor child.

61 Section 3. Section **30-10-103** is enacted to read:

62 **30-10-103. Qualifications and training.**

63 (1) Subject to meeting the educational and training requirements in Subsections (2)
64 through (5), the following persons may conduct custody evaluations in response to a request
65 from a court:

66 (a) social workers with the designation of Licensed Clinical Social Worker or
67 equivalent license by the state in which they practice;

68 (b) doctoral level psychologists who are licensed by the state in which they practice;

69 (c) physicians who are board certified in psychiatry and are licensed by the state in
70 which they practice; or

71 (d) marriage and family therapists who hold the designation of Licensed Marriage and
72 Family Therapist or equivalent license by the state in which they practice.

73 (2) Custody evaluators shall have a minimum of a master's degree in a mental health
74 field that includes:

75 (a) formal education and training in child development, child and adult
76 psychopathology, interviewing techniques, and family systems; and

77 (b) by formal education or by supervised work experience, advanced knowledge of the
78 complexities of the divorce or separation process, a working knowledge of the legal issues in
79 divorce or separation, and an understanding of the legal, social, familial, and cultural issues
80 involved in custody and access.

81 (3) Custody evaluators shall have initial training totaling a minimum of 40 hours in the
82 following areas, no more than five of which may be in any one area:

83 (a) the psychological and developmental needs of children, especially as those needs
84 relate to decisions about child custody and access;

85 (b) family dynamics, including parent-child relationships, blended families, and
86 extended family relationships;

87 (c) the significance of culture and religion in the lives of parties;

88 (d) safety issues that may arise during the evaluation process and their potential effects
89 on all participants in the evaluation;

- 90 (e) when and how to interview or assess adults, infants, and children;
- 91 (f) how to gather information from collateral sources;
- 92 (g) how to collect and assess relevant data and recognize the limits of the reliability
- 93 and validity of different sources of data;
- 94 (h) how to address issues such as general mental health, medication use, and learning
- 95 or physical disabilities;
- 96 (i) how to apply comparable interview, assessment, and testing procedures that meet
- 97 generally accepted forensic standards to all parties;
- 98 (j) when to consult with or involve additional experts or other appropriate persons;
- 99 (k) how to inform litigants, children, other participants, and collateral sources, of the
- 100 purpose, nature, and method of the evaluation and the limits of confidentiality;
- 101 (l) how to assess parenting capacity and co-parenting capacity and to construct
- 102 effective parenting and co-parenting plans;
- 103 (m) the legal context within which child custody and access issues are decided and
- 104 additional legal and ethical standards to consider when serving as a child custody evaluator;
- 105 (n) how to make the relevant distinctions among the roles of evaluator, mediator,
- 106 therapist, parent coordinator, and co-parenting counselor;
- 107 (o) how to write reports for the courts to which they will be presented;
- 108 (p) how to prepare for and give testimony at deposition or at trial; and
- 109 (q) how to maintain professional neutrality and objectivity when conducting child
- 110 custody evaluations.
- 111 (4) At least 24 hours of initial training on the effects of domestic violence, and another
- 112 16 hours on issues of separation, divorce, substance abuse, child alienation, child mistreatment
- 113 including child sexual abuse, the effects of relocation, sexual orientation issues, and
- 114 inter-parental conflict on the psychological and developmental needs of children, adolescents,
- 115 and adults shall be completed.
- 116 (5) An additional 20 hours of specialized training shall include managing issues related
- 117 to:
- 118 (a) allegations of child sexual abuse;
- 119 (b) children's resistance to spending time with a parent or parent figure;
- 120 (c) allegations of attempts to alienate children from a parent, parent figure, or

121 significant other;

122 (d) children's best interests in the context of relocation requests by one parent;

123 (e) substance abuse; and

124 (f) child abuse, domestic violence, and safety plans for both parents and children.

125 (6) Continuing education requirements for custody evaluators shall be as follows:

126 (a) 16 hours covering the areas of Subsection (3), no more than two hours in any one

127 area; and

128 (b) 16 hours covering the areas of Subsections (4) and (5), at least eight of which shall

129 be on the effects of domestic violence.

130 Section 4. Section **30-10-104** is enacted to read:

131 **30-10-104. Court responsibilities.**

132 (1) The Administrative Office of the Courts shall maintain an approved list of custody
133 evaluators who have met the qualifications in Section 30-10-103.

134 (2) If the court determines that a custody evaluator is needed in an action, the court
135 shall appoint an evaluator from a list of court-approved evaluators. Evaluators shall be
136 selected at random to ensure impartiality.

137 (3) A child custody evaluator appointed in accordance with this chapter may not also
138 be appointed as a special master in accordance with URCP 53 or a parenting coordinator
139 appointed in accordance with Title 30, Chapter 11, Parent Coordination Act.

140 (4) All custody evaluations shall be conducted in accordance with Code of Judicial
141 Administration, Rule 4-903.

142 Section 5. Section **30-10-105** is enacted to read:

143 **30-10-105. Custody evaluator responsibilities.**

144 (1) A custody evaluator shall:

145 (a) accept cases referred by the court without regard to the financial situation of the
146 parties;

147 (b) review with each party the custody evaluator's policies and procedures for
148 conducting an evaluation;

149 (c) provide the court and each party with copies of all written documentation and
150 reports; and

151 (d) note in the final report provided to the court and the parties, any missing or

152 incomplete information.

153 (2) As a requirement to remain on the court-approved list of custody evaluators, an
154 evaluator shall agree to provide a minimum of two custody evaluations annually without
155 charge.

156 Section 6. Section **30-10-106** is enacted to read:

157 **30-10-106. Fees and costs.**

158 (1) A child custody evaluator shall provide to the parties and the court an itemized
159 accounting of all amounts charged.

160 (2) The court shall consider the financial situation of both parties in determining
161 payment for the custody evaluator's services, and make a final determination on the record of
162 the amounts each party is responsible for paying.

163 (3) The Administrative Office of the Courts may create a sliding scale for payment to
164 custody evaluators based upon the income of the respective parties.

165 Section 7. Section **30-11-101** is enacted to read:

166 **CHAPTER 11. PARENT COORDINATION ACT**

167 **30-11-101. Title.**

168 This chapter shall be known as the "Parent Coordination Act."

169 Section 8. Section **30-11-102** is enacted to read:

170 **30-11-102. Definitions.**

171 As used in this chapter:

172 (1) "Parent coordinator" means a person appointed by the court to minimize trauma to
173 the children of divorce by resolving custody-related disputes between the parents within the
174 scope of the court's order.

175 (2) "Party" means the petitioner, respondent, or their respective attorneys in an action
176 for separation, divorce, or child custody.

177 Section 9. Section **30-11-103** is enacted to read:

178 **30-11-103. Qualifications and training.**

179 (1) Subject to meeting the educational and training requirements in Subsection (2), the
180 following persons may be appointed by a court as a parent coordinator:

181 (a) a doctoral level psychologist who is licensed by the state in which they practice;

182 (b) a legal professional who is licensed by the state in which they practice; and

- 183 (c) a certified family mediator with a master's degree in a mental health field.
- 184 (2) Parent coordinators shall have:
- 185 (a) formal training or advanced knowledge in child development, child and adult
- 186 psychopathology, interviewing techniques, and family systems;
- 187 (b) advanced knowledge of the complexities of the divorce or separation process, a
- 188 working knowledge of the legal issues in divorce or separation, and an understanding of the
- 189 legal, social, familial, and cultural issues involved in a proceeding relating to child custody;
- 190 (c) advanced experience and knowledge in family mediation, and, preferably, be a
- 191 certified family mediator according to court rule;
- 192 (d) advanced experience with high conflict or litigating parents;
- 193 (e) a minimum of 40 hours of initial training which includes training in parent
- 194 coordination, family dynamics in separation and divorce, domestic violence, child
- 195 mistreatment, and court specific parenting procedures; and
- 196 (f) an additional 20 hours of specialized training which includes maintenance of
- 197 professional competence in the parenting coordination process.
- 198 Section 10. Section **30-11-104** is enacted to read:
- 199 **30-11-104. Court responsibilities.**
- 200 (1) The Administrative Office of the Courts shall maintain an approved list of parent
- 201 coordinators who have met the qualifications in this chapter.
- 202 (2) If the court determines that a parent coordinator is needed, the court shall appoint a
- 203 coordinator from the list maintained by the Administrative Office of the Courts.
- 204 (3) A parent coordinator may decline appointment if the case is beyond the parent
- 205 coordinator's skill or expertise.
- 206 (4) The court order appointing a parent coordinator shall:
- 207 (a) require the coordinator to work with the parties in order to create workable
- 208 solutions to disputes that will, in time, lessen the need for a parent coordinator;
- 209 (b) allow the coordinator to make recommendations and decisions necessary to allow
- 210 as little disruption in the children's home and routine as possible, yet carry out specified court
- 211 orders regarding parent-time; and
- 212 (c) provide a term of service for the parent coordinator, including start and end dates.
- 213 (5) Upon the expiration of the parent coordinator's term of service, one or both parents

214 may request the coordinator continue for additional time. The court shall determine whether
215 the coordinator may continue and set a specific length of time if the decision is made to
216 continue the coordinator.

217 (6) If one parent requests additional time and the other parent declines, the court shall
218 determine the matter.

219 Section 11. Section **30-11-105** is enacted to read:

220 **30-11-105. Parent coordinator responsibilities.**

221 (1) The parent coordinator's primary role is to assist the parties impartially to work out
222 disagreements regarding their children to minimize conflict.

223 (2) The parent coordinator shall report suspected child abuse or neglect to the proper
224 agency.

225 (3) The parent coordinator shall communicate decisions in a timely manner in person
226 or by fax, e-mail, or telephone. In the event decisions are provided orally, a written version
227 shall follow in a timely manner.

228 (4) The parent coordinator shall discuss with both parties all policies, procedures, and
229 standards for decision-making. In addition, each party shall be given a copy of the court's order
230 to the coordinator.

231 (5) The parent coordinator may not serve in multiple roles in the same case.

232 (6) The parent coordinator shall make every effort to avoid conflicts of interest and
233 shall disclose any conflicts to the court and all parties involved in the case.

234 (7) The parent coordinator shall provide a report to the court and all parties at intervals
235 determined by the court, and a final report upon the expiration of the coordinator's term.

236 Section 12. Section **30-11-106** is enacted to read:

237 **30-11-106. Fees and costs.**

238 (1) The parent coordinator shall provide to the court and the parties an itemized
239 accounting of all amounts charged.

240 (2) The court shall make an initial determination of each party's share of the parent
241 coordinator's fees. It shall consider the financial situation of both parties in determining
242 payment for the parent coordinator's services. Upon the termination of the parent coordinator's
243 services, the court shall make a final determination on the record of any outstanding amounts
244 each party is responsible for paying.

245 (3) The Administrative Office of the Courts may create a sliding scale for payment to
246 parent coordinators based upon the income of the respective parties.

Legislative Review Note
as of 1-28-08 6:30 AM

Office of Legislative Research and General Counsel

H.B. 169 - Custody Evaluation and Parent Coordination

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will require ongoing General Funds to the Courts of \$19,500.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$19,500	\$19,500	\$0	\$0	\$0
Total	\$0	\$19,500	\$19,500	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.