



# House of Representatives *State of Utah*

UTAH STATE CAPITOL COMPLEX • 350 STATE CAPITOL  
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February 18, 2008

Mr. Speaker:

The Judiciary Committee recommends **H.B. 415**, JOINT CUSTODY MODIFICATIONS, by Representative L. Fowlke, be replaced and reports a favorable recommendation on **1st Sub. H.B. 415**, JOINT CUSTODY MODIFICATIONS with the following amendments:

1. *Page 2, Line 49 through Page 3, Line 63:*

49           {+} (b) The court shall, in every case, consider joint custody but may award  
any form of  
50 custody which is determined to be {+}  
51           ~~{(b) There shall be a rebuttable presumption that joint legal custody, as~~  
~~defined in~~  
52 ~~Section 30-3-10.1, is}~~ in the best interest of the child. ~~{, so long as the party who~~  
~~desires joint~~  
53 ~~legal custody files a proposed parenting plan in accordance with Sections 30-3-10.8~~  
~~and~~  
54 ~~30-3-10.9. The presumption may be rebutted by a showing by a preponderance of~~  
~~the~~  
55 ~~evidence that the following circumstances exist:~~  
56 ~~—(i) the parents were not married to each other;~~  
57 ~~—(ii) domestic violence in the home or in the presence of the child;~~  
58 ~~—(iii) special physical or mental needs of a parent or child, making joint legal~~  
~~custody~~  
59 ~~unreasonable;~~  
60 ~~—(iv) physical distance between the residences of the parents, making joint~~  
~~decision~~  
61 ~~making impractical in certain circumstances; or~~  
62 ~~—(v) any other factor the court considers relevant, including those listed in~~  
~~Section~~  
63 ~~30-3-10.2.}~~

2. *Page 4, Lines 97 through 99:*

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97 (5) This section establishes neither a preference nor a presumption for or against  
{+} joint  
98 legal custody, {+} joint physical custody {+} , {+} or sole {~~physical~~  
-} custody, but allows the court and the  
99 family the widest discretion to choose a parenting plan that is in the best interest of the  
child.

3. Page 5, Lines 128 through 132:

128 (c) {+} The agreement shall contain {+} {~~An order of joint legal or~~  
~~physical custody shall~~  
129 ~~require~~} a parenting plan incorporating a dispute resolution procedure the parties agree  
to use {~~:~~}  
130 {~~(i) in accordance with Section 30-3-10.9, or as ordered by the court in~~  
~~accordance with~~  
131 ~~Subsection 30-3-10.2(5); and~~}  
132 {~~(ii)~~} before seeking enforcement or modification of the terms and conditions of  
the

Respectfully,

Douglas C. Aagard  
Committee Chair

Voting: 13-0-0

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