

26 **30-3-10**, as last amended by Laws of Utah 2010, Chapter 237
 27 **30-3-10.3**, as last amended by Laws of Utah 2009, Chapter 179
 28 **30-3-10.4**, as last amended by Laws of Utah 2010, Chapter 228

29

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

31 Section 1. Section **30-3-10** is amended to read:

32 **30-3-10. Custody of children in case of separation or divorce -- Custody**
 33 **consideration.**

34 (1) If a husband and wife having minor children are separated, or their marriage is
 35 declared void or dissolved, the court shall make an order for the future care and custody of the
 36 minor children as it considers appropriate.

37 (a) In determining any form of custody, the court shall consider the best interests of the
 38 child and, among other factors the court finds relevant, the following:

39 (i) the past conduct and demonstrated moral standards of each of the parties;

40 (ii) which parent is most likely to act in the best interest of the child, including
 41 allowing the child frequent and continuing contact with the noncustodial parent;

42 (iii) the extent of bonding between the parent and child, meaning the depth, quality,
 43 and nature of the relationship between a parent and child; and

44 (iv) those factors outlined in Section 30-3-10.2.

45 (b) ~~[The court shall, in every case, consider joint custody but may award any form of~~
 46 ~~custody which is determined to be]~~ There shall be a rebuttable presumption that joint legal
 47 custody, as defined in Section 30-3-10.1, is in the best interest of the child[-], ~~Ŝ→~~ **except in cases**
 47a **where there is:**

47b **(i) domestic violence in the home or in the presence of the child;**

47c **(ii) special physical or mental needs of a parent or child, making joint legal custody**
 47d **unreasonable;**

47e **(iii) physical distance between the residences of the parents, making joint decision**
 47f **making impractical in certain circumstances; or**

47g **(iv) any other factor the court considers relevant including those listed in this Section**
 47h **and Section 30-3-10.2. [so long as the**

48 **party who]** (c) **The person who** ~~←Ŝ~~ **desires joint legal custody** ~~Ŝ→~~ **[files] shall file** ~~←Ŝ~~ **a proposed**
 48a **parenting plan in accordance with**

49 **Sections 30-3-10.8 and 30-3-10.9.** ~~Ŝ→~~ **[The] A** ~~←Ŝ~~ **presumption** ~~Ŝ→~~ **for joint legal custody** ~~←Ŝ~~
 49a **may be rebutted by a showing by a**

50 preponderance of the evidence that ~~§→ [the following circumstances exist:]~~ it is not in the best
50a interest of the child. ←§

51 ~~§→ [(i) the parents were not married to each other;]~~

52 ~~[(ii) §→ [(i) ←§ domestic violence in the home or in the presence of the child;~~

53 ~~—— §→ [(iii)] (ii) ←§ special physical or mental needs of a parent or child, making joint~~
53a legal custody

54 unreasonable;

55 ~~—— §→ [(iv)] (iii) ←§ physical distance between the residences of the parents, making~~
55a joint decision

56 making impractical in certain circumstances; or] ←§

57 ~~§~~ → [~~—~~ ~~§~~ → [(v)] (iv) ~~←~~ ~~§~~ any other factor the court considers relevant, including those listed in
 57a § → this Section and ~~←~~ ~~§~~ Section
 58 30-3-10.2. ~~←~~ ~~§~~

59 ~~§~~ → [(e)] (d) ~~←~~ ~~§~~ The children may not be required by either party to testify unless the trier of
 59a fact
 60 determines that extenuating circumstances exist that would necessitate the testimony of the
 61 children be heard and there is no other reasonable method to present their testimony.

62 ~~§~~ → [(f)] e ~~←~~ ~~§~~ The court may inquire of the children and take into consideration the
 62a children's
 63 desires regarding future custody or parent-time schedules, but the expressed desires are not
 64 controlling and the court may determine the children's custody or parent-time otherwise. The
 65 desires of a child 16 years of age or older shall be given added weight, but is not the single
 66 controlling factor.

67 ~~§~~ → [(e)] f ~~←~~ ~~§~~ If interviews with the children are conducted by the court pursuant to
 67a Subsection

68 (1)(d), they shall be conducted by the judge in camera. The prior consent of the parties may be
 69 obtained but is not necessary if the court finds that an interview with the children is the only
 70 method to ascertain the child's desires regarding custody.

71 (2) In awarding custody, the court shall consider, among other factors the court finds
 72 relevant, which parent is most likely to act in the best interests of the child, including allowing
 73 the child frequent and continuing contact with the noncustodial parent as the court finds
 74 appropriate.

75 (3) If the court finds that one parent does not desire custody of the child, [~~the court~~]

75a ~~§~~ → [or] ~~←~~ ~~§~~

76 ~~§~~ → [has attempted to permanently relinquish custody to a third party, it] the court ~~←~~ ~~§~~ shall take
 76a that evidence into
 77 consideration in determining whether to award custody to the other parent.

78 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a
 79 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining
 80 whether a substantial change has occurred for the purpose of modifying an award of custody.

81 (b) If a court takes a parent's disability into account in awarding custody or determining
 82 whether a substantial change has occurred for the purpose of modifying an award of custody,
 83 the parent with a disability may rebut any evidence, presumption, or inference arising from the
 84 disability by showing that:

85 (i) the disability does not significantly or substantially inhibit the parent's ability to
 86 provide for the physical and emotional needs of the child at issue; or

87 (ii) the parent with a disability has sufficient human, monetary, or other resources