

HB0107S01 compared with HB0107

~~{deleted text}~~ shows text that was in HB0107 but was deleted in HB0107S01.

inserted text shows text that was not in HB0107 but was inserted into HB0107S01.

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Representative Gage Froerer proposes the following substitute bill:

JOINT CUSTODY MODIFICATIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~{makes joint legal and physical custody the preferred custody arrangement in a separation or divorce}~~ creates a rebuttable presumption for joint custody in a divorce or separation action.

Highlighted Provisions:

This bill:

- ▶ ~~{states that joint legal and physical custody of children in a divorce or separation is in the best interest of the child;~~
- ▶ ~~requires the court to order joint legal and physical custody to parents;~~ creates a rebuttable presumption for joint custody in a divorce or separation action;
- ▶ ~~{allows a parent to rebut}~~ provides that the presumption ~~{of joint legal and physical custody; and~~

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~~— makes changes to the parent-time schedule~~ } for joint custody may be rebutted by circumstances, including domestic violence:

- ▶ sets conditions for the court to consider in modifying a joint custody order;
- ▶ requires that parents participate in dispute resolution proceedings; and
- ▶ requires the court to make specific findings when modifying or terminating a joint custody order.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~30-3-10~~, as last amended by Laws of Utah 2010, Chapter 237

~~30-3-10.1~~, as last amended by Laws of Utah 2003, Chapter 269

~~— 30-3-10.2~~, as last amended by Laws of Utah 2005, Chapter 142

~~— 30-3-10.3~~, as last amended by Laws of Utah 2009, Chapter 179

~~30-3-10.4~~, as last amended by Laws of Utah 2010, Chapter 228

~~{ — 30-3-10.8~~, as enacted by Laws of Utah 2001, Chapter 126

~~— 30-3-35~~, as last amended by Laws of Utah 2010, Chapter 228

~~— 78A-6-104~~, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

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

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

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

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

~~{}~~(i) the past conduct and demonstrated moral standards of each of the parties; ~~{}~~

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

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

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

(b) ~~The court shall, in every case, ff consider joint custody but may award any form of custody which is determined to be]~~ ~~ff presume~~ There shall be a rebuttable presumption that joint legal and physical custody that designates equal parent-time and equal custody between the parents of all minor children is, as defined in Section 30-3-10.1, is in the best interest of the child~~[-], so long as the party who desires joint legal custody files a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.~~ The presumption ~~of joint legal and physical custody~~ may be rebutted by ~~either party. The party seeking to rebut the presumption shall bear the burden of proof that joint legal and physical custody is not in the best interest of the minor child.~~ a showing by a preponderance of the evidence that the following circumstances exist:

(i) the parents were not married to each other;

(ii) domestic violence in the home or in the presence of the child;

(iii) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(iv) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(v) any other factor the court considers relevant, including those listed in Section 30-3-10.2.

(c) The children 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 children be heard and there is no other reasonable method to present their testimony.

(d) The court may inquire of the children and take into consideration the children's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise. The desires of a child 16 years of age or older shall be given added weight, but is not the single controlling factor.

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

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

~~§§(3)~~ ~~§(2)~~ If the court finds that one parent does not desire custody of the child, the court] or has attempted to permanently relinquish custody to a third party, it shall take that evidence into consideration in determining ~~§§~~ whether ~~§(how)~~ to award custody ~~§§~~ to the other parent ~~§§~~.

~~§§(4)~~ ~~§(3)~~ (a) Except as provided in Subsection ~~§§(4)~~ ~~§(3)~~(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) If a court takes a parent's disability into account in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody, the parent with a disability may rebut any evidence, presumption, or inference arising from the disability by showing that:

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

(ii) the parent with a disability has sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

~~§§(5)~~ This section establishes neither a preference nor a presumption for or against ~~joint legal custody,]~~ 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 child. ~~§§~~

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Section 2. Section 30-3-10.~~{1}~~3 is amended to read:

~~30-3-10.1. Definitions -- Joint legal custody -- Joint physical custody.~~

~~As used in this chapter:~~

~~(1) "Joint legal custody":~~

~~(a) means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified;~~

~~(b) may include an award of exclusive authority by the court to one parent to make specific decisions;~~

~~(c) does not affect the physical custody of the child except as specified in the order of joint legal custody;~~

~~(d) is not based on awarding equal or nearly equal periods of physical custody of and access to the child to each of the parents, as the best interest of the child often requires that a primary physical residence for the child be designated; and~~

~~(e) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.~~

~~(2) "Joint physical custody":~~

~~(a) means the child stays with each parent overnight [for more than] a minimum of 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support;~~

~~(b) can mean equal or nearly equal periods of physical custody of and access to the child by each of the parents, as required to meet the best interest of the child;~~

~~(c) may require that a primary physical residence for the child be designated; and~~

~~(d) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.~~

~~Section 3. Section 30-3-10.2 is amended to read:~~

~~30-3-10.2. Joint custody order -- Factors for court determination -- Public assistance:~~

~~(1) The court [may] shall order joint legal custody [or] and joint physical custody [for both if one or both parents have filed a parenting plan in accordance with Section 30-3-10.8 and] unless it determines that joint legal custody or joint physical custody or both is not in the best interest of the child.~~

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~~—— (2) In determining whether the best interest of a child will not be served by ordering joint legal [or] and physical custody, the court shall consider the following factors:~~

~~—— (a) whether the physical, psychological, and emotional needs and development of the child will benefit more from a custody arrangement other than joint legal [or] and physical custody;~~

~~—— (b) the ability of the parents to give first priority to the welfare of the child and reach shared decisions in the child's best interest;~~

~~—— (c) whether each parent is capable of encouraging and accepting a positive relationship between the child and the other parent, including the sharing of love, affection, and contact between the child and the other parent;~~

~~—— (d) whether both parents participated in raising the child before the divorce;~~

~~—— (e) the geographical proximity of the homes of the parents;~~

~~—— (f) the preference of the child if the child is of sufficient age and capacity to reason so as to form an intelligent preference as to 3. **Terms of** joint legal or physical custody;~~

~~—— (g) the maturity of the parents and their willingness and ability to protect the 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;~~

~~—— (i) any history of, or potential for, child abuse, spouse abuse, or kidnaping; and~~

~~—— (j) any other factors the court finds relevant.~~

~~—— (3) The determination of the best interest of the child shall be by a preponderance of the evidence. Any single factor is not sufficient to rebut the presumption in favor of joint physical and joint legal custody.~~

~~—— (4) 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.~~

~~—— (5) The court may order that where 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~~

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child:

~~— (6) In evaluating and determining the overnight parent-time to be awarded to each parent, the court's order shall require the parents to:~~

~~— (a) have significant, well-defined periods of responsibility for the child;~~

~~— (b) be allowed and expected to have responsibility for the child's financial, physical, emotional and developmental needs during that parent's periods of responsibility; and~~

~~— (c) consult with each other on major decisions involving the child before implementing those decisions and that neither parent may make a decision or take an action which results in a major change in the child's life until the matter has been discussed and agreed upon.~~

~~— Section 4. Section 30-3-10.3 is amended to read:~~

~~— 30-3-10.3. Terms of joint custody} order.~~

(1) Unless the court orders otherwise, before a final order of joint legal custody ~~{}~~or ~~{}~~ joint physical custody ~~{, or both}~~ is entered ~~{}~~ both parties shall attend the mandatory course for divorcing parents, as provided in Section 30-3-11.3, and present a certificate of completion from the course to the court.

(2) An order of joint legal ~~{}~~or ~~{ custody, joint}~~ physical custody ~~{, or both}~~ shall provide terms the court determines appropriate, which may include specifying:

(a) either the county of residence of the child, until altered by further order of the court, or the custodian who has the sole legal right to determine the residence of the child;

(b) that the parents shall exchange information concerning the health, education, and welfare of the child, and where possible, confer before making decisions concerning any of these areas;

(c) the rights and duties of each parent regarding the child's present and future physical care, support, and education;

(d) provisions to minimize disruption of the child's ~~{daily routine, }~~attendance at school and other activities, ~~{}~~his daily routine, ~~{}~~ and ~~{}~~his ~~{}~~ 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.

(3) The court shall, where possible, include in the order the terms of the parenting plan

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provided in accordance with Section 30-3-10.8.

(4) Any parental rights not specifically addressed by the court order may be exercised by the parent having physical custody of the child ~~{at} the {[majority of the] time the issue arises unless the decision will result in a major change in the child's life. If the decision will result in a major change in the child's life the other parent shall be consulted and a decision made jointly}~~ majority of the time.

(5) The appointment of joint legal or physical custodians does not impair or limit the authority of the court to order support of the child, including payments by one custodian to the other.

(6) An order of joint legal custody, in itself, is not grounds for modifying a support order.

(7) An order of joint legal or physical custody shall require a parenting plan incorporating a dispute resolution procedure the parties agree to use:

(a) in accordance with Section 30-3-10.9, or as ordered by the court in accordance with Subsection 30-3-10.2(5); and

(b) before seeking enforcement or modification of the terms and conditions of the order of joint legal or physical custody through litigation, except in emergency situations requiring ex parte orders to protect the child.

Section ~~{5}~~3. Section **30-3-10.4** is amended to read:

30-3-10.4. Modification or termination of order.

(1) 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 or physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that the circumstances of the child or one or both parents or joint legal or physical custodians have materially and substantially changed 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 child; and

(c) (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 30-3-10.3(7); or

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(ii) if no dispute resolution procedure is contained in the order that established joint legal or physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 30-3-10.2(5) unless the parents certify that, in good faith, they have utilized a dispute resolution procedure to resolve their dispute.

(2) (a) In determining whether the best interest of a child will be served by either modifying or terminating the joint legal or physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors outlined in Section 30-3-10 and Subsection 30-3-10.2(2).

(b) ~~The court shall make specific~~ A court order modifying or terminating an existing joint legal or physical custody order shall contain written findings ~~on each of the factors relied upon stating~~ that:

(i) a material and substantial 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 child.

(c) The court shall give substantial weight to the existing joint legal or physical custody order when the child is thriving, happy, and well-adjusted.

(3) The court shall, in every case regarding a petition for termination of a joint legal or physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Subsection 30-3-10(1)(b). The court may modify the terms and conditions of the existing order ~~and~~ in accordance with Subsection 30-3-10(5) ~~and~~ and may order the parents to file a parenting plan in accordance with this chapter.

(4) 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 30-3-10.8.

(5) If the court finds that an action under this section 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.

~~{~~ ~~Section 6. Section 30-3-10.8 is amended to read:~~

~~30-3-10.8. Parenting plan -- Filing -- Modifications.~~

~~(1) In any proceeding under this chapter, including actions for paternity, [any] a party [requesting joint custody, joint legal or physical custody, or any other type of shared parenting~~

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arrangement,] shall file and serve a proposed parenting plan at the time of the filing of their original petition or at the time of filing their answer or counterclaim:

~~—— (2) If a party in any action under this chapter, including actions for paternity, requests custody of a minor child that is not joint physical custody, joint legal custody, or both, the party shall articulate within the parenting plan:~~

~~—— (a) substantial justification for the deviation from joint custody;~~

~~—— (b) a proposed parent-time schedule that provides both parents with meaningful opportunities to share in the parenting of the child; and~~

~~—— (c) any other information necessary to enable the court to make a determination in the child's best interest and the parental relationship.~~

~~—— [(2)] (3) In proceedings for a modification of custody provisions or modification of a parenting plan, a proposed parenting plan shall be filed and served with the petition to modify, or the answer or counterclaim to the petition to modify.~~

~~—— [(3)] (4) A party who files a proposed parenting plan in compliance with this section may move the court for an order of default to adopt the plan if the other party fails to file a proposed parenting plan as required by this section. However, a parenting plan entered by default may not provide a parent with less than joint physical and joint legal custody without a hearing to determine whether less parent-time is in the best interest of the child.~~

~~—— [(4)] (5) Either party may file and serve an amended proposed parenting plan according to the rules for amending pleadings.~~

~~—— [(5)] (6) The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.~~

~~—— [(6)] (7) Both parents may submit a parenting plan which has been agreed upon. A verified statement, signed by both parents, shall be attached.~~

~~—— [(7)] (8) If the parents file inconsistent parenting plans, the court may appoint a guardian ad litem to represent the best interests of the child, who may, if necessary, file a separate parenting plan reflecting the best interests of the child.~~

~~—— Section 7. Section **30-3-35** is amended to read:~~

~~—— **30-3-35. Minimum schedule for parent-time for children 5 to 18 years of age.**~~

~~—— (1) The parent-time schedule in this section applies to children 5 to 18 years of age.~~

~~—— (2) If the parties do not agree to a parent-time schedule, the following schedule shall be~~

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~~considered the minimum parent-time to which the noncustodial parent and the child shall be entitled:~~

~~—— (a) (i) (A) One weekday [evening] overnight to be specified by the noncustodial parent or the court, or Wednesday evening if not specified, [from 5:30 p.m. until 8:30 p.m.]; from the time the child's school is regularly dismissed until the time the child returns to school the following morning, or at 9 a.m. if school is not in session; or~~

~~—— [(B) at the election of the noncustodial parent, one weekday from the time the child's school is regularly dismissed until 8:30 p.m., unless the court directs the application of Subsection (2)(a)(i); or]~~

~~—— [(C)] (B) at the election of the noncustodial parent, if school is not in session, one weekday from approximately 9 a.m., accommodating the custodial parent's work schedule, until [8:30 p.m.] 9 a.m. the following day if the noncustodial parent is available to be with the child, unless the court directs the application of Subsection (2)(a)(i)(A) [or (2)(a)(i)(B)].~~

~~—— (ii) Once the election of the weekday for the weekday evening parent-time is made, it may not be changed except by mutual written agreement or court order.~~

~~—— (b) (i) (A) Alternating weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until [7 p.m.] 9 a.m. on [Sunday] Monday continuing each year;~~

~~—— (B) at the election of the noncustodial parent, from the time the child's school is regularly dismissed on Friday until [7 p.m.] 9 a.m. on [Sunday] Monday, unless the court directs the application of Subsection (2)(b)(i)(A); or~~

~~—— (C) at the election of the noncustodial parent, if school is not in session, on Friday from approximately 9 a.m., accommodating the custodial parent's work schedule, until [7 p.m.] 9 a.m. on [Sunday] Monday, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(b)(i)(A) or (2)(b)(i)(B):~~

~~—— (ii) A step-parent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the individual, and the parent will be with the child by 7 p.m.~~

~~—— (iii) Elections should be made by the noncustodial parent at the time of entry of the divorce decree or court order, and may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.~~

~~—— (iv) Weekends include any "snow" days, teacher development days, or other days when~~

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~~school is not scheduled and which are contiguous to the weekend period.~~

~~—— (c) Holidays include any "snow" days, teacher development days after the children begin the school year, or other days when school is not scheduled, contiguous to the holiday period, and take precedence over the weekend parent-time. Changes may not be made to the regular rotation of the alternating weekend parent-time schedule; however, birthdays take precedence over holidays and extended parent-time, except Mother's Day and Father's Day; birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time takes the child away from that parent's residence for the uninterrupted extended parent-time.~~

~~—— (d) If a holiday falls on a regularly scheduled school day, the noncustodial parent shall be responsible for the child's attendance at school for that school day.~~

~~—— (e) (i) If a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period.~~

~~—— (ii) (A) At the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is regularly dismissed at the beginning of the holiday weekend until 7 p.m. on the last day of the holiday weekend; or~~

~~—— (B) at the election of the noncustodial parent, if school is not in session, parent-time over a scheduled holiday weekend may begin at approximately 9 a.m., accommodating the custodial parent's work schedule, the first day of the holiday weekend until 7 p.m. on the last day of the holiday weekend, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(c)(ii)(A).~~

~~—— (iii) A step-parent, grandparent, or other responsible individual designated by the noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the individual, and the parent will be with the child by 7 p.m.~~

~~—— (iv) Elections should be made by the noncustodial parent at the time of the divorce decree or court order, and may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.~~

~~—— (f) In years ending in an odd number, the noncustodial parent is entitled to the following holidays:~~

~~—— (i) child's birthday on the day before or after the actual birthdate beginning at 3 p.m.~~

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~~until 9 p.m.; at the discretion of the noncustodial parent, he may take other siblings along for the birthday;~~

~~—— (ii) Martin Luther King, Jr. beginning 6 p.m. on Friday until Monday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;~~

~~—— (iii) spring break beginning at 6 p.m. on the day school lets out for the holiday until 7 p.m. on the Sunday before school resumes;~~

~~—— (iv) July 4 beginning 6 p.m. the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;~~

~~—— (v) Labor Day beginning 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;~~

~~—— (vi) the fall school break, if applicable, commonly known as U.E.A. weekend beginning at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;~~

~~—— (vii) Veteran's Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on the holiday; and~~

~~—— (viii) the first portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b) including Christmas Eve and Christmas Day, continuing until 1 p.m. on the day halfway through the holiday period, if there are an odd number of days for the holiday period, or until 7 p.m. if there are an even number of days for the holiday period, so long as the entire holiday period is equally divided.~~

~~—— (g) In years ending in an even number, the noncustodial parent is entitled to the following holidays:~~

~~—— (i) child's birthday on actual birthdate beginning at 3 p.m. until 9 p.m.; at the discretion of the noncustodial parent, he may take other siblings along for the birthday;~~

~~—— (ii) President's Day beginning at 6 p.m. on Friday until 7 p.m. on Monday unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;~~

~~—— (iii) Memorial Day beginning at 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;~~

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- ~~—— (iv) July 24 beginning at 6 p.m. on the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;~~
- ~~—— (v) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the holiday;~~
- ~~—— (vi) Halloween on October 31 or the day Halloween is traditionally celebrated in the local community from after school until 9 p.m. if on a school day, or from 4 p.m. until 9 p.m.;~~
- ~~—— (vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and~~
- ~~—— (viii) the second portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b), beginning 1 p.m. on the day halfway through the holiday period, if there are an odd number of days for the holiday period, or at 7 p.m. if there are an even number of days for the holiday period, so long as the entire Christmas holiday period is equally divided;~~
- ~~—— (h) The custodial parent is entitled to the odd year holidays in even years and the even year holidays in odd years.~~
- ~~—— (i) Father's Day shall be spent with the natural or adoptive father every year beginning at 9 a.m. until 7 p.m. on the holiday.~~
- ~~—— (j) Mother's Day shall be spent with the natural or adoptive mother every year beginning at 9 a.m. until 7 p.m. on the holiday.~~
- ~~—— (k) Extended parent-time with the noncustodial parent may be:~~
 - ~~—— (i) up to four consecutive weeks when school is not in session at the option of the noncustodial parent, including weekends normally exercised by the noncustodial parent, but not holidays;~~
 - ~~—— (ii) two weeks shall be uninterrupted time for the noncustodial parent; and~~
 - ~~—— (iii) the remaining two weeks shall be subject to parent-time for the custodial parent for weekday parent-time but not weekends, except for a holiday to be exercised by the other parent.~~
- ~~—— (l) The custodial parent shall have an identical two-week period of uninterrupted time when school is not in session for purposes of vacation.~~
- ~~—— (m) Both parents shall provide notification of extended parent-time or vacation weeks with the child at least 30 days prior to the end of the child's school year to the other parent and if notification is not provided timely the complying parent may determine the schedule for extended parent-time for the noncomplying parent.~~

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~~—— (n) Telephone contact shall be at reasonable hours and for a reasonable duration.~~

~~—— (o) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration, provided that if the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:~~

~~—— (i) the best interests of the child;~~

~~—— (ii) each parent's ability to handle any additional expenses for virtual parent-time; and~~

~~—— (iii) any other factors the court considers material.~~

~~—— (3) Any elections required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.~~

~~—— (4) Notwithstanding Subsection (2)(e)(i), the Halloween holiday may not be extended beyond the hours designated in Subsection (2)(g)(vi).~~

~~—— Section 8. Section ~~78A-6-104~~ is amended to read:~~

~~—— **78A-6-104. Concurrent jurisdiction -- District court and juvenile court.**~~

~~—— (1) The district court or other court has concurrent jurisdiction with the juvenile court as follows:~~

~~—— (a) when a person who is 18 years of age or older and who is under the continuing jurisdiction of the juvenile court under Section ~~78A-6-117~~ violates any federal, state, or local law or municipal ordinance; and~~

~~—— (b) in establishing paternity and ordering testing for the purposes of establishing paternity, in accordance with Title ~~78B~~, Chapter ~~15~~, Utah Uniform Parentage Act, with regard to proceedings initiated under Part ~~3~~, Abuse, Neglect, and Dependency Proceedings, or Part ~~5~~, Termination of Parental Rights Act.~~

~~—— (2) The juvenile court has jurisdiction over petitions to modify a minor's birth certificate if the court otherwise has jurisdiction over the minor.~~

~~—— (3) This section does not deprive the district court of jurisdiction to appoint a guardian for a child, or to determine the support, custody, and parent-time of a child upon writ of habeas corpus or when the question of support, custody, and parent-time is incidental to the determination of a cause in the district court.~~

HB0107S01 compared with HB0107

~~———— (4) (a) Where a support, custody, or parent-time award has been made by a district court in a divorce action or other proceeding, and the jurisdiction of the district court in the case is continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the child is dependent, abused, neglected, or otherwise comes within the jurisdiction of the juvenile court under Section 78A-6-103.~~

~~———— (b) The juvenile court may, by order, change the custody, [subject to Subsection 30-3-10(4),] support, parent-time, and visitation rights previously ordered in the district court as necessary to implement the order of the juvenile court for the safety and welfare of the child. The juvenile court order remains in effect so long as the jurisdiction of the juvenile court continues.~~

~~———— (c) When a copy of the findings and order of the juvenile court has been filed with the district court, the findings and order of the juvenile court are binding on the parties to the divorce action as though entered in the district court.~~

~~———— (5) The juvenile court has jurisdiction over questions of custody, support, and parent-time, of a minor who comes within the court's jurisdiction under this section or Section 78A-6-103.~~

Legislative Review Note

~~———— as of 1-27-12 8:28 AM~~

~~———— Office of Legislative Research and General Counsel}~~