

**Senator Jacob L. Anderegg** proposes the following substitute bill:

**CUSTODY AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jacob L. Anderegg**

House Sponsor: Karianne Lisonbee

---

---

**LONG TITLE**

**General Description:**

This bill amends child custody provisions.

**Highlighted Provisions:**

This bill:

- ▶ creates a rebuttable presumption that joint physical custody, where the parenting time is equal or as equal as practicable, is in the best interest of the child;
- ▶ modifies the factors for determining whether joint custody is in the best interest of a child; and
- ▶ makes technical and conforming changes.

**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 2019, First Special Session, Chapter 5

**30-3-10.2**, as last amended by Laws of Utah 2019, Chapter 188

**30-3-10.3**, as last amended by Laws of Utah 2012, Chapter 271



26 30-3-10.4, as last amended by Laws of Utah 2019, Chapter 188

27 30-3-33, as last amended by Laws of Utah 2017, Chapter 224

28 30-3-35, as last amended by Laws of Utah 2020, Chapter 50

29 30-3-35.5, as last amended by Laws of Utah 2017, Chapter 120

30 REPEALS:

31 30-3-34, as last amended by Laws of Utah 2019, Chapter 188



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

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

35 **30-3-10. Custody of a child -- Custody factors.**

36 (1) If a married or unmarried couple having one or more minor children are separated,  
37 or ~~the~~ a married couple's marriage is declared void or dissolved, the court shall enter, and has  
38 continuing jurisdiction to modify, an order of custody and parent-time.

39 (2) In determining any form of custody and parent-time under Subsection (1), the court  
40 shall consider the best interest of the child and may consider among other factors the court  
41 finds relevant, the following for each parent:

42 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional  
43 abuse, involving the child, the parent, or a household member of the parent;

44 (b) the parent's demonstrated understanding of, responsiveness to, and ability to meet  
45 the developmental needs of the child, including the child's:

46 (i) physical needs;

47 (ii) emotional needs;

48 (iii) educational needs;

49 (iv) medical needs; and

50 (v) any special needs;

51 (c) the parent's capacity and willingness to function as a parent, including:

52 (i) parenting skills;

53 (ii) co-parenting skills, including~~[:]~~ a parent's willingness and ability to:

54 (A) ~~[ability to]~~ appropriately communicate with the other parent;

55 (B) ~~[ability to]~~ allow and encourage the sharing of love and affection; ~~[and]~~

56 (C) refrain from influencing the child to denigrate or reject a parent, including

57 indirectly through a third party; and  
58 ~~[(C) willingness to allow]~~  
59 (D) allow and encourage frequent, meaningful, and continuous contact between the  
60 child and the other parent, except that, if the court determines that the parent is acting to protect  
61 the child from domestic violence, neglect, or abuse, the parent's protective actions may be  
62 taken into consideration; and  
63 (iii) ability to provide personal care rather than surrogate care;  
64 (d) in accordance with Subsection ~~[(10)]~~ (9), the past conduct and demonstrated moral  
65 character of the parent;  
66 (e) the emotional stability of the parent;  
67 (f) the parent's inability to function as a parent because of drug abuse, excessive  
68 drinking, or other causes;  
69 (g) whether the parent has intentionally exposed the child to pornography or material  
70 harmful to minors, as "material" and "harmful to minors" are defined in Section [76-10-1201](#);  
71 (h) the parent's reasons for having relinquished custody or parent-time in the past;  
72 (i) duration and depth of desire for custody or parent-time;  
73 (j) the parent's religious compatibility with the child;  
74 (k) the parent's financial responsibility;  
75 (l) the child's interaction and relationship with step-parents, extended family members  
76 of other individuals who may significantly affect the child's best interests;  
77 (m) who has been the primary caretaker of the child;  
78 (n) a parent's violation of previous or existing custody or parent-time orders;  
79 (o) evidence of a parent influencing the child to denigrate or reject a parent, including  
80 indirectly through a third party;  
81 ~~[(n)]~~ (p) previous [parenting] living arrangements in which the child has been happy  
82 and well-adjusted in the home, school, and community;  
83 ~~[(o)]~~ (q) the relative benefit of keeping siblings together;  
84 ~~[(p)]~~ (r) the stated wishes and concerns of the child, [taking into consideration the  
85 child's cognitive ability and emotional maturity;] considering whether the child's wishes or  
86 concerns have been unduly influenced or whether the child has diminished capacity to express  
87 the child's authentic desire;

88           ~~[(q)]~~ (s) the relative strength of the child's bond with the parent, meaning the depth,  
89 quality, and nature of the relationship between the parent and the child; and

90           ~~[(r)]~~ (t) any other factor the court finds relevant.

91           (3) ~~[There]~~ Subject to the factors in Subsection (2), in a court action where custody is  
92 pleaded, there is a rebuttable presumption that joint legal custody, as defined in Section  
93 30-3-10.1, and joint physical custody where the parenting time is equal or as equal as  
94 practicable, is in the best interest of the child, except in cases when there is:

95           (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional  
96 abuse involving the child, a parent, or a household member of the parent;

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

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

101           (d) any other factor the court considers relevant including those listed in this section  
102 and Section 30-3-10.2.

103           (4) (a) The person who desires joint legal custody shall file a proposed parenting plan  
104 in accordance with Sections 30-3-10.8 and 30-3-10.9.

105           (b) A presumption for joint legal custody may be rebutted by a showing by a  
106 preponderance of the evidence that it is not in the best interest of the child.

107           ~~(c) A presumption for joint physical custody, where the parenting time is equal or as~~  
108 ~~equal as practicable, may be rebutted by a showing by a preponderance of the evidence that it is~~  
109 ~~not in the best interest of the child.~~

110           (5) (a) A child may not be required by either party to testify unless the trier of fact  
111 determines that extenuating circumstances exist that would necessitate the testimony of the  
112 child be heard and there is no other reasonable method to present the child's testimony.

113           ~~[(b)(i) The court may inquire of the child's and take into consideration the child's~~  
114 ~~desires regarding future custody or parent-time schedules, but the expressed desires are not~~  
115 ~~controlling and the court may determine the child's custody or parent-time otherwise.]~~

116           (b) Subject to Subsection (3), the court may:

117           ~~(i) exercise discretion to determine the child's custody or parent-time schedule,~~  
118 ~~including determining a child's custody or parent-time schedule in a manner that conflicts with~~

119 the child's expressed desires;

120 (ii) inquire of the child's desires regarding future custody or parent-time schedules;

121 (iii) consider the child's expressed desires, taking into consideration whether the child's

122 preference has been unduly influenced or whether the child has diminished capacity to express

123 the child's authentic desire; and

124 (iv) give added weight to the desires of a child that is at least 14 years old.

125 ~~[(ii) The desires of a child 14 years of age or older shall be given added weight, but is~~  
126 ~~not the single controlling factor.]~~

127 (c) The court may not use the child's desires as the single controlling factor for  
128 determining the child's custody or parent-time schedule.

129 ~~[(e)]~~ (d) (i) If an interview with a child is conducted by the court pursuant to  
130 Subsection (5)(b), the interview shall be conducted by the judge in camera.

131 (ii) The prior consent of the parties may be obtained but is not necessary if the court  
132 finds that an interview with a child is the only method to ascertain the child's desires regarding  
133 custody.

134 (6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a  
135 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining  
136 whether a substantial change has occurred for the purpose of modifying an award of custody.

137 (b) The court may not consider the disability of a parent as a factor in awarding custody  
138 or modifying an award of custody based on a determination of a substantial change in  
139 circumstances, unless the court makes specific findings that:

140 (i) the disability significantly or substantially inhibits the parent's ability to provide for  
141 the physical and emotional needs of the child at issue; and

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

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

147 ~~[(7) This section does not establish a preference for either parent solely because of the~~  
148 ~~gender of the parent.]~~

149 ~~[(8) This section establishes neither a preference nor a presumption for or against joint~~

150 ~~physical custody or sole physical custody, but allows the court and the family the widest~~  
151 ~~discretion to choose a parenting plan that is in the best interest of the child.]~~

152 (7) When awarding custody or modifying an award of custody under Section  
153 30-3-10.4, the court may not:

- 154 (a) discriminate against a parent due to the parent's gender; or
- 155 (b) use the gender of a parent or child as a factor.

156 ~~[(9)]~~ (8) When an issue before the court involves custodial responsibility in the event  
157 of a deployment of one or both parents who are servicemembers, and the servicemember has  
158 not yet been notified of deployment, the court shall resolve the issue based on the standards in  
159 Sections 78B-20-306 through 78B-20-309.

160 ~~[(10)]~~ (9) In considering the past conduct and demonstrated moral standards of each  
161 party under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

162 (a) consider or treat a parent's lawful possession or use of cannabis in a medicinal  
163 dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in  
164 accordance with Title 4, Chapter 41a, Cannabis Production Establishments, Title 26, Chapter  
165 61a, Utah Medical Cannabis Act, or Subsection 58-37-3.7(2) or (3) any differently than the  
166 court would consider or treat the lawful possession or use of any prescribed controlled  
167 substance; or

168 (b) discriminate against a parent because of the parent's status as a:

- 169 (i) cannabis production establishment agent, as that term is defined in Section  
170 4-41a-102;
- 171 (ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;
- 172 (iii) medical cannabis courier agent, as that term is defined in Section 26-61a-102; or
- 173 (iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah  
174 Medical Cannabis Act.

175 Section 2. Section 30-3-10.2 is amended to read:

176 **30-3-10.2. Joint custody order -- Factors for court determination -- Public**  
177 **assistance.**

178 (1) ~~[The]~~ Subject to the presumption described in Subsection 30-3-10(3), the court may  
179 order joint legal custody or joint physical custody or both if one or both parents have filed a  
180 parenting plan in accordance with Section 30-3-10.8 and the court determines that joint legal

181 custody or joint physical custody or both is in the best interest of the child.

182 (2) In determining whether the best interest of a child will be served by ordering joint  
183 legal custody or joint physical custody or both, the court shall consider the custody factors in  
184 Section 30-3-10 and the following factors:

185 (a) whether the physical, psychological, and emotional needs and development of the  
186 child will benefit from joint legal custody or joint physical custody or both;

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

189 (c) co-parenting skills, including~~[:]~~ a parent's ability and willingness to:

190 (i) ~~[ability to]~~ appropriately communicate with the other parent;

191 (ii) ~~[ability to]~~ allow and encourage the sharing of love and affection; [and]

192 (iii) refrain from influencing the child to denigrate or reject a parent, including  
193 indirectly through a third party; and

194 ~~[(iii) willingness to allow]~~

195 (iv) allow and encourage frequent, meaningful, and continuous contact between the  
196 child and the other parent, except that, if the court determines that the parent is acting to protect  
197 the child from domestic violence, neglect, or abuse, the parent's protective actions may be  
198 taken into consideration; and

199 ~~[(d) whether both parents participated in raising the child before the divorce;]~~

200 ~~[(e)]~~ (d) the geographical proximity of the homes of the parents;

201 (e) the ties the child has to the child's current school and community;

202 (f) the preference of the child, taking into consideration:

203 (i) whether the child is of sufficient age and capacity to reason and form an intelligent  
204 preference regarding the child's custody or parent-time schedule;

205 (ii) evidence of a parent influencing the child to denigrate or reject a parent, including  
206 indirectly through a third party; and

207 (iii) whether the child's preference has been unduly influenced or whether the child has  
208 diminished capacity to express the child's authentic desire;

209 ~~[(f) the preference of the child if the child is of sufficient age and capacity to reason so~~  
210 ~~as to form an intelligent preference as to joint legal custody or joint physical custody or both;]~~

211 (g) the maturity of the parents and their willingness and ability to protect the child from

212 conflict that may arise between the parents;

213 (h) the past and present ability and willingness of the parents to cooperate with each  
214 other and make decisions jointly; and

215 (i) any other factor the court finds relevant.

216 ~~[(3) The determination of the best interest of the child shall be by a preponderance of  
217 the evidence.]~~

218 ~~[(4) The court shall inform both parties that an order for joint physical custody may  
219 preclude eligibility for cash assistance provided under Title 35A, Chapter 3, Employment  
220 Support Act.]~~

221 (3) If the court determines that either of the presumptions described in Subsection  
222 30-3-10(3) are rebutted by a preponderance of the evidence, the court shall make written  
223 findings of fact explaining the court's determination.

224 (4) If joint physical custody, where the parenting time is equal or as equal as  
225 practicable, is not in the best interest of the child, the court shall order a parent-time schedule  
226 that maximizes the time with each parent, consistent with the child's best interest.

227 (5) The court may order that when possible the parties attempt to settle future disputes  
228 by a dispute resolution method before seeking enforcement or modification of the terms and  
229 conditions of the order of joint legal custody or joint physical custody through litigation, except  
230 in emergency situations requiring ex parte orders to protect the child.

231 Section 3. Section **30-3-10.3** is amended to read:

232 **30-3-10.3. Terms of joint legal or physical custody order.**

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

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

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

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



243 these areas;

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

246 (d) provisions to minimize disruption of the child's attendance at school and other  
247 activities, his daily routine, and his association with friends; and

248 (e) as necessary, the remaining parental rights, privileges, duties, and powers to be  
249 exercised by the parents solely, concurrently, or jointly.

250 (3) The court shall, where possible, include in the order the terms of the parenting plan  
251 provided in accordance with Section 30-3-10.8.

252 (4) Any parental rights not specifically addressed by the court order may be exercised  
253 by the parent having physical custody of the child the majority of the time.

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

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

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

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

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

266 Section 4. Section 30-3-10.4 is amended to read:

267 **30-3-10.4. Modification or termination of order.**

268 (1) On the petition of one or both of the parents, or the joint legal or physical  
269 custodians if they are not the parents, the court may, after a hearing, modify or terminate an  
270 order that established joint legal custody or joint physical custody if:

271 (a) the verified petition or accompanying affidavit initially alleges that admissible  
272 evidence will show that the circumstances of the child or one or both parents or joint legal or  
273 physical custodians have materially and substantially changed since the entry of the order to be

274 modified;

275 (b) a modification of the terms and conditions of the order would be an improvement  
276 for and in the best interest of the child; and

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

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

283 (2) (a) In determining whether the best interest of a child will be served by either  
284 modifying or terminating the joint legal custody or joint physical custody order, the court shall,  
285 in addition to other factors the court considers relevant, consider the factors outlined in Section  
286 30-3-10 and Subsection 30-3-10.2(2).

287 (b) A court order modifying or terminating an existing joint legal custody or joint  
288 physical custody order shall contain written findings that:

289 (i) a material and substantial change of circumstance has occurred; and

290 (ii) a modification of the terms and conditions of the order would be an improvement  
291 for and in the best interest of the child.

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

294 (3) The court shall, in every case regarding a petition for termination of a joint legal  
295 custody or joint physical custody order, consider reasonable alternatives to preserve the  
296 existing order in accordance with Subsection 30-3-10(3). The court may modify the terms and  
297 conditions of the existing order [~~in accordance with Subsection 30-3-10(8)~~] and may order the  
298 parents to file a parenting plan in accordance with this chapter.

299 (4) A parent requesting a modification from sole custody to joint legal custody or joint  
300 physical custody or both, or any other type of shared parenting arrangement, shall file and serve  
301 a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

302 (5) If the court finds that an action under this section is filed or answered frivolously  
303 and in a manner designed to harass the other party, the court shall assess attorney fees as costs  
304 against the offending party.

305 (6) If an issue before the court involves custodial responsibility in the event of  
306 deployment of one or both parents who are servicemembers, and the servicemember has not yet  
307 been notified of deployment, the court shall resolve the issue based on the standards in Sections  
308 78B-20-306 through 78B-20-309.

309 Section 5. Section 30-3-33 is amended to read:

310 **30-3-33. Advisory guidelines.**

311 [~~In addition to the parent-time schedules provided in Sections 30-3-35 and 30-3-35.5,~~

312 ~~the]~~ The following advisory guidelines are suggested to govern all parent-time arrangements  
313 between parents.

314 (1) Parent-time schedules mutually agreed upon by both parents are preferable to a  
315 court-imposed solution.

316 (2) The parent-time schedule shall be used to maximize the continuity and stability of  
317 the child's life.

318 (3) Special consideration shall be given by each parent to make the child available to  
319 attend family functions including funerals, weddings, family reunions, religious holidays,  
320 important ceremonies, and other significant events in the life of the child or in the life of either  
321 parent which may inadvertently conflict with the parent-time schedule.

322 (4) The responsibility for the pick up, delivery, and return of the child shall be  
323 determined by the court when the parent-time order is entered, and may be changed at any time  
324 a subsequent modification is made to the parent-time order.

325 (5) If the noncustodial parent will be providing transportation, the custodial parent  
326 shall have the child ready for parent-time at the time the child is to be picked up and shall be  
327 present at the custodial home or shall make reasonable alternate arrangements to receive the  
328 child at the time the child is returned.

329 (6) If the custodial parent will be transporting the child, the noncustodial parent shall  
330 be at the appointed place at the time the noncustodial parent is to receive the child, and have  
331 the child ready to be picked up at the appointed time and place, or have made reasonable  
332 alternate arrangements for the custodial parent to pick up the child.

333 (7) Regular school hours may not be interrupted for a school-age child for the exercise  
334 of parent-time by either parent.

335 (8) The court may make alterations in the parent-time schedule to reasonably

336 accommodate the work schedule of both parents and may increase the parent-time allowed to  
337 the noncustodial parent but may not diminish the standardized parent-time provided in Sections  
338 30-3-35 and 30-3-35.5.

339 (9) The court may make alterations in the parent-time schedule to reasonably  
340 accommodate the distance between the parties and the expense of exercising parent-time.

341 (10) Neither parent-time nor child support is to be withheld due to either parent's  
342 failure to comply with a court-ordered parent-time schedule.

343 (11) The custodial parent shall notify the noncustodial parent within 24 hours of  
344 receiving notice of all significant school, social, sports, and community functions in which the  
345 child is participating or being honored, and the noncustodial parent shall be entitled to attend  
346 and participate fully.

347 (12) The noncustodial parent shall have access directly to all school reports including  
348 preschool and daycare reports and medical records and shall be notified immediately by the  
349 custodial parent in the event of a medical emergency.

350 (13) Each parent shall provide the other with the parent's current address and telephone  
351 number, email address, and other virtual parent-time access information within 24 hours of any  
352 change.

353 (14) Each parent shall permit and encourage, during reasonable hours, reasonable and  
354 uncensored communications with the child, in the form of mail privileges and virtual  
355 parent-time if the equipment is reasonably available, provided that if the parties cannot agree  
356 on whether the equipment is reasonably available, the court shall decide whether the equipment  
357 for virtual parent-time is reasonably available, taking into consideration:

- 358 (a) the best interests of the child;
- 359 (b) each parent's ability to handle any additional expenses for virtual parent-time; and
- 360 (c) any other factors the court considers material.

361 (15) Parental care shall be presumed to be better care for the child than surrogate care  
362 and the court shall encourage the parties to cooperate in allowing the noncustodial parent, if  
363 willing and able to transport the children, to provide the child care. Child care arrangements  
364 existing during the marriage are preferred as are child care arrangements with nominal or no  
365 charge.

366 (16) Each parent shall provide all surrogate care providers with the name, current

367 address, and telephone number of the other parent and shall provide the noncustodial parent  
368 with the name, current address, and telephone number of all surrogate care providers unless the  
369 court for good cause orders otherwise.

370 (17) Each parent shall be entitled to an equal division of major religious holidays  
371 celebrated by the parents, and the parent who celebrates a religious holiday that the other parent  
372 does not celebrate shall have the right to be together with the child on the religious holiday.

373 (18) If the child is on a different parent-time schedule than a sibling, based on Sections  
374 [30-3-35](#) and [30-3-35.5](#), the parents should consider if an upward deviation for parent-time with  
375 all the minor children so that parent-time is uniform between school aged and nonschool aged  
376 children, is appropriate.

377 (19) When one or both parents are servicemembers or contemplating joining a  
378 uniformed service, the parents should resolve issues of custodial responsibility in the event of  
379 deployment as soon as practicable through reaching a voluntary agreement pursuant to Section  
380 [78B-20-201](#) or through court order obtained pursuant to Section [30-3-10](#). Servicemembers  
381 shall ensure their family care plan reflects orders and agreements entered and filed pursuant to  
382 Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.

383 Section 6. Section [30-3-35](#) is amended to read:

384 **[30-3-35. Minimum schedule for parent-time for children 5 to 18 years old.](#)**

385 (1) The parent-time schedule in this section:

386 (a) applies to children 5 to 18 years old[-]; and

387 (b) shall only be ordered:

388 (i) if the parties do not agree to a parent-time schedule; and

389 (ii) after the court considers whether an alternative parent-time schedule that

390 maximizes each parent's parenting time is in the best interest of the child under Subsection

391 [30-3-10.2\(4\)](#).

392 (2) [~~If the parties do not agree to a parent-time schedule, the~~] The following schedule  
393 shall be considered the minimum parent-time to which the noncustodial parent and the child  
394 shall be entitled.

395 (a) (i) (A) One weekday evening to be specified by the noncustodial parent or the court,  
396 or Wednesday evening if not specified, from 5:30 p.m. until 8:30 p.m.;

397 (B) at the election of the noncustodial parent, one weekday from the time the child's

398 school is regularly dismissed until 8:30 p.m., unless the court directs the application of  
399 Subsection (2)(a)(i)(A); or

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

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

406 (b) (i) (A) Alternating weekends beginning on the first weekend after the entry of the  
407 decree from 6 p.m. on Friday until Sunday at 7 p.m. continuing each year;

408 (B) at the election of the noncustodial parent, from the time the child's school is  
409 regularly dismissed on Friday until Sunday at 7 p.m., unless the court directs the application of  
410 Subsection (2)(b)(i)(A); or

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

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

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

421 (iv) Weekends include any "snow" days, teacher development days, or other days when  
422 school is not scheduled and that are contiguous to the weekend period.

423 (c) Holidays include any "snow" days, teacher development days after the children  
424 begin the school year, or other days when school is not scheduled, contiguous to the holiday  
425 period, and take precedence over the weekend parent-time. Changes may not be made to the  
426 regular rotation of the alternating weekend parent-time schedule, however:

427 (i) birthdays take precedence over holidays and extended parent-time, except Mother's  
428 Day and Father's Day; and

429 (ii) birthdays do not take precedence over uninterrupted parent-time if the parent  
430 exercising uninterrupted time takes the child away from that parent's residence for the  
431 uninterrupted extended parent-time.

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

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

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

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

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

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

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

453 (i) the child's birthday on the day before or after the child's actual birthdate beginning  
454 at 3 p.m. until 9 p.m., and at the discretion of the noncustodial parent, the noncustodial parent  
455 may take other siblings along for the birthday;

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

459 (iii) subject to Subsection (2)(i), spring break beginning at 6 p.m. on the day school lets

460 out for the holiday until 7 p.m. on the evening before school resumes;

461 (iv) July 4 beginning 6 p.m. on the day before the holiday until 11 p.m. or no later than  
462 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

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

465 (vi) subject to Subsection (2)(i), the fall school break beginning at 6 p.m. on the day  
466 that school lets out for the holiday until 7 p.m. on the evening before school resumes;

467 (vii) Veterans Day holiday beginning 6 p.m. on the day before the holiday until 7 p.m.  
468 on the holiday; and

469 (viii) the first portion of the Christmas school vacation as defined in Subsection  
470 30-3-32(3)(b), including Christmas Eve and Christmas Day, continuing until 1 p.m. on the day  
471 halfway through the holiday period, if there are an odd number of days for the holiday period or  
472 until 7 p.m. if there are an even number of days for the holiday period, so long as the entire  
473 holiday period is equally divided.

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

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

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

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

485 (iv) July 24 beginning at 6 p.m. on the day before the holiday until 11 p.m. or no later  
486 than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

487 (v) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the  
488 holiday;

489 (vi) Halloween on October 31 or the day Halloween is traditionally celebrated in the  
490 local community from after school until 9 p.m. if on a school day, or from 4 p.m. until 9 p.m.;



491 (vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and

492 (viii) the second portion of the Christmas school vacation as defined in Subsection  
493 30-3-32(3)(b), beginning 1 p.m. on the day halfway through the holiday period if there are an  
494 odd number of days for the holiday period, or at 7 p.m. if there are an even number of days for  
495 the holiday period, so long as the entire Christmas holiday period is equally divided.

496 (h) The custodial parent is entitled to the odd year holidays in even years and the even  
497 year holidays in odd years.

498 (i) If there is more than one child and the children's school schedules vary for purpose  
499 of a holiday, at the option of the parent exercising the holiday or the parent's half of the  
500 holiday, the children may remain together for the holiday period beginning the first evening  
501 that all children's schools are let out for the holiday and ending the evening before any child  
502 returns to school.

503 (j) Father's Day shall be spent with the natural or adoptive father every year beginning  
504 at 9 a.m. until 7 p.m. on the holiday.

505 (k) Mother's Day shall be spent with the natural or adoptive mother every year  
506 beginning at 9 a.m. until 7 p.m. on the holiday.

507 (l) Extended parent-time with the noncustodial parent may be:

508 (i) up to four consecutive weeks when school is not in session at the option of the  
509 noncustodial parent, including weekends normally exercised by the noncustodial parent, but  
510 not holidays;

511 (ii) two weeks shall be uninterrupted time for the noncustodial parent; and

512 (iii) the remaining two weeks shall be subject to parent-time for the custodial parent for  
513 weekday parent-time but not weekends, except for a holiday to be exercised by the other  
514 parent.

515 (m) The custodial parent shall have an identical two-week period of uninterrupted time  
516 when school is not in session for purposes of vacation.

517 (n) Both parents shall provide notification of extended parent-time or vacation weeks  
518 with the child at least 30 days before the end of the child's school year to the other parent and if  
519 notification is not provided timely the complying parent may determine the schedule for  
520 extended parent-time for the noncomplying parent.

521 (o) Telephone contact shall be at reasonable hours and for a reasonable duration.

522 (p) (i) Virtual parent-time, if the equipment is reasonably available and the parents  
523 reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration.

524 (ii) If the parties cannot agree on whether the equipment is reasonably available, the  
525 court shall decide whether the equipment for virtual parent-time is reasonably available, taking  
526 into consideration:

527 (A) the best interests of the child;

528 (B) each parent's ability to handle any additional expenses for virtual parent-time; and

529 (C) any other factors the court considers material.

530 (3) An election required to be made in accordance with this section by either parent  
531 concerning parent-time shall be made a part of the decree and made a part of the parent-time  
532 order.

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

535 Section 7. Section **30-3-35.5** is amended to read:

536 **30-3-35.5. Minimum schedule for parent-time for children under five years of**  
537 **age.**

538 (1) [~~The~~] Subject to Subsection 30-3-10.2(4), the parent-time schedule in this section  
539 applies to children under five years old.

540 (2) All holidays in this section refer to the same holidays referenced in Section  
541 **30-3-35**.

542 (3) If the parties do not agree to a parent-time schedule, the following schedule shall be  
543 considered the minimum parent-time to which the noncustodial parent and the child shall be  
544 entitled.

545 (a) For children under five months of age:

546 (i) six hours of parent-time per week to be specified by the court or the noncustodial  
547 parent preferably:

548 (A) divided into three parent-time periods; and

549 (B) in the custodial home, established child care setting, or other environment familiar  
550 to the child; and

551 (ii) two hours on holidays and in the years specified in Subsections **30-3-35(2)(f)**  
552 through (k) preferably in the custodial home, the established child care setting, or other

553 environment familiar to the child.

554 (b) For children five months of age or older, but younger than nine months of age:

555 (i) nine hours of parent-time per week to be specified by the court or the noncustodial  
556 parent preferably:

557 (A) divided into three parent-time periods; and

558 (B) in the custodial home, established child care setting, or other environment familiar  
559 to the child; and

560 (ii) two hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)  
561 through (k) preferably in the custodial home, the established child care setting, or other  
562 environment familiar to the child.

563 (c) For children nine months of age or older, but younger than 12 months of age:

564 (i) one eight hour visit per week to be specified by the noncustodial parent or court;

565 (ii) one three hour visit per week to be specified by the noncustodial parent or court;

566 (iii) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)  
567 through (k); and

568 (iv) brief telephone contact and other virtual parent-time, if the equipment is  
569 reasonably available, with the noncustodial parent at least two times per week, provided that if  
570 the parties cannot agree on whether the equipment is reasonably available, the court shall  
571 decide whether the equipment for virtual parent-time is reasonably available, taking into  
572 consideration:

573 (A) the best interests of the child;

574 (B) each parent's ability to handle any additional expenses for virtual parent-time; and

575 (C) any other factors the court considers material.

576 (d) For children 12 months of age or older, but younger than 18 months of age:

577 (i) one eight-hour visit per alternating weekend to be specified by the noncustodial  
578 parent or court;

579 (ii) on opposite weekends from Subsection (3)(d)(i), from 6 p.m. on Friday until noon  
580 on Saturday;

581 (iii) one three-hour visit per week to be specified by the noncustodial parent or court;

582 (iv) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)  
583 through (k); and

584 (v) brief telephone contact and other virtual parent-time, if the equipment is reasonably  
585 available, with the noncustodial parent at least two times per week, provided that if the parties  
586 cannot agree on whether the equipment is reasonably available, the court shall decide whether  
587 the equipment for virtual parent-time is reasonably available, taking into consideration:

588 (A) the best interests of the child;

589 (B) each parent's ability to handle any additional expenses for virtual parent-time; and

590 (C) any other factors the court considers material.

591 (e) For children 18 months of age or older, but younger than three years of age:

592 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the  
593 noncustodial parent or court; however, if the child is being cared for during the day outside his  
594 regular place of residence, the noncustodial parent may, with advance notice to the custodial  
595 parent, pick up the child from the caregiver at an earlier time and return him to the custodial  
596 parent by 8:30 p.m.;

597 (ii) alternative weekends beginning on the first weekend after the entry of the decree  
598 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

599 (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (k);

600 (iv) extended parent-time may be:

601 (A) two one-week periods, separated by at least four weeks, at the option of the  
602 noncustodial parent;

603 (B) one week shall be uninterrupted time for the noncustodial parent;

604 (C) the remaining week shall be subject to parent-time for the custodial parent  
605 consistent with these guidelines; and

606 (D) the custodial parent shall have an identical one-week period of uninterrupted time  
607 for vacation; and

608 (v) brief telephone contact and virtual parent-time, if the equipment is reasonably  
609 available, with the noncustodial parent at least two times per week, provided that if the parties  
610 cannot agree on whether the equipment is reasonably available, the court shall decide whether  
611 the equipment for virtual parent-time is reasonably available, taking into consideration:

612 (A) the best interests of the child;

613 (B) each parent's ability to handle any additional expenses for virtual parent-time; and

614 (C) any other factors the court considers material.

- 615 (f) For children three years of age or older, but younger than five years of age:  
616 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the  
617 noncustodial parent or court; however, if the child is being cared for during the day outside his  
618 regular place of residence, the noncustodial parent may, with advance notice to the custodial  
619 parent, pick up the child from the caregiver at an earlier time and return him to the custodial  
620 parent by 8:30 p.m.;
- 621 (ii) alternative weekends beginning on the first weekend after the entry of the decree  
622 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;
- 623 (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (k);  
624 (iv) extended parent-time with the noncustodial parent may be:
- 625 (A) two two-week periods, separated by at least four weeks, at the option of the  
626 noncustodial parent;
- 627 (B) one two-week period shall be uninterrupted time for the noncustodial parent;
- 628 (C) the remaining two-week period shall be subject to parent-time for the custodial  
629 parent consistent with these guidelines; and
- 630 (D) the custodial parent shall have an identical two-week period of uninterrupted time  
631 for vacation; and
- 632 (v) brief telephone contact and virtual parent-time, if the equipment is reasonably  
633 available, with the noncustodial parent at least two times per week, provided that if the parties  
634 cannot agree on whether the equipment is reasonably available, the court shall decide whether  
635 the equipment for virtual parent-time is reasonably available, taking into consideration:
- 636 (A) the best interests of the child;
- 637 (B) each parent's ability to handle any additional expenses for virtual parent-time; and  
638 (C) any other factors the court considers material.
- 639 (4) A parent shall notify the other parent at least 30 days in advance of extended  
640 parent-time or vacation weeks.
- 641 (5) Virtual parent-time shall be at reasonable hours and for reasonable duration.

642 **Section 8. Repealer.**

643 This bill repeals:

644 Section 30-3-34, **Parent-time -- Best interests -- Rebuttable presumption.**