

Representative Paul A. Cutler proposes the following substitute bill:

CHILD CUSTODY PROCEEDINGS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul A. Cutler

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill concerns the protection of children in certain judicial proceedings.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ in certain proceedings involving child custody and parent-time:
 - specifies requirements for the admission of expert evidence; and
 - requires a court to consider specific evidence when determining custody and parent-time;
 - ▶ amends provisions regarding the supervision of supervised parent-time;
 - ▶ imposes certain requirements and limitations regarding orders to improve the relationship between a parent and a child;
 - ▶ requires the state court administrator to make recommendations regarding the education and training of court personnel involving child custody and related proceedings;
 - ▶ requires that certain protective order proceedings comply with specific standards;
- and
- ▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 This bill provides a coordination clause.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **30-3-10**, as last amended by Laws of Utah 2023, Chapters 44, 327

33 **30-3-10.1**, as last amended by Laws of Utah 2023, Chapter 44

34 **30-3-10.10**, as enacted by Laws of Utah 2006, Chapter 287

35 **30-3-34**, as last amended by Laws of Utah 2021, Chapter 399

36 **30-3-34.5**, as last amended by Laws of Utah 2022, Chapter 430

37 ENACTS:

38 **30-3-41**, Utah Code Annotated 1953

39 **78A-2-232**, Utah Code Annotated 1953

40 **78B-7-121**, Utah Code Annotated 1953

41 **Utah Code Sections Affected By Coordination Clause:**

42 **30-3-10**, as last amended by Laws of Utah 2023, Chapters 44, 327

43 **30-3-10.1**, as last amended by Laws of Utah 2023, Chapter 44

44 **30-3-34**, as last amended by Laws of Utah 2021, Chapter 399

45 **30-3-34.5**, as last amended by Laws of Utah 2022, Chapter 430

46 **30-3-41**, as Utah Code Annotated 1953

47 **78B-7-121**, as Utah Code Annotated 1953



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

50 *The following section is affected by a coordination clause at the end of this bill.*

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

52 **30-3-10. Custody of a child -- Custody factors.**

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

56 (2) In determining any form of custody and parent-time under Subsection (1), the court

57 shall consider the best interest of the child [~~and may consider among other factors the court~~
58 ~~finds relevant, the following for each parent:.~~].

59 (3) In determining any form of custody and parent-time under Subsection (1), the court
60 shall consider:

61 (a) for each parent, and in accordance with Section [30-3-41](#), evidence of domestic
62 violence, physical abuse, or sexual abuse involving the child, the parent, or a household
63 member of the parent;

64 (b) whether the parent has intentionally exposed the child to pornography or material
65 harmful to minors, as "material" and "harmful to minors" are defined in Section [76-10-1201](#);
66 and

67 (c) whether custody and parent-time would endanger the child's health or physical or
68 psychological safety.

69 (4) In determining any form of custody and parent-time under Subsection (1), the court
70 may consider, among other factors the court finds relevant, the following for each parent:

71 (a) evidence of [~~domestic violence, neglect, physical abuse, sexual abuse, or emotional~~
72 abuse, involving the child, the parent, or a household member of the parent] psychological
73 maltreatment;

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

76 (i) physical needs;

77 (ii) emotional needs;

78 (iii) educational needs;

79 (iv) medical needs; and

80 (v) any special needs;

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

82 (i) parenting skills;

83 (ii) co-parenting skills, including:

84 (A) ability to appropriately communicate with the other parent;

85 (B) ability to encourage the sharing of love and affection; and

86 (C) willingness to allow frequent and continuous contact between the child and the
87 other parent, except that, if the court determines that the parent is acting to protect the child

88 from domestic violence, neglect, or abuse, the parent's protective actions may be taken into
89 consideration; and

90 (iii) ability to provide personal care rather than surrogate care;

91 (d) in accordance with Subsection ~~[(10)]~~ (12), the past conduct and demonstrated moral
92 character of the parent;

93 (e) the emotional stability of the parent;

94 (f) the parent's inability to function as a parent because of drug abuse, excessive
95 drinking, or other causes;

96 ~~[(g)] whether the parent has intentionally exposed the child to pornography or material~~
97 ~~harmful to minors, as "material" and "harmful to minors" are defined in Section ~~76-10-1201~~;~~

98 ~~[(h)]~~ (g) the parent's reasons for having relinquished custody or parent-time in the past;

99 ~~[(i)]~~ (h) duration and depth of desire for custody or parent-time;

100 ~~[(j)]~~ (i) the parent's religious compatibility with the child;

101 ~~[(k)]~~ (j) the parent's financial responsibility;

102 ~~[(l)]~~ (k) the child's interaction and relationship with step-parents, extended family
103 members of other individuals who may significantly affect the child's best interests;

104 ~~[(m)]~~ (l) who has been the primary caretaker of the child;

105 ~~[(n)]~~ (m) previous parenting arrangements in which the child has been happy and
106 well-adjusted in the home, school, and community;

107 ~~[(o)]~~ (n) the relative benefit of keeping siblings together;

108 ~~[(p)]~~ (o) the stated wishes and concerns of the child, taking into consideration the
109 child's cognitive ability and emotional maturity;

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

112 ~~[(r)]~~ (q) any other factor the court finds relevant.

113 ~~[(3)]~~ (5) There is a rebuttable presumption that joint legal custody, as defined in
114 Section [30-3-10.1](#), is in the best interest of the child, except in cases when there is:

115 (a) in accordance with Section [30-3-41](#), evidence of domestic violence, neglect,
116 physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household
117 member of the parent;

118 (b) special physical or mental needs of a parent or child, making joint legal custody

119 unreasonable;

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

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

124 ~~[(4)]~~ (6) (a) The person who desires joint legal custody shall file a proposed parenting
125 plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

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

128 ~~[(5)]~~ (7) (a) A child may not be required by either party to testify unless the trier of fact
129 determines that extenuating circumstances exist that would necessitate the testimony of the
130 child be heard and there is no other reasonable method to present the child's testimony.

131 (b) (i) The court may inquire of the child's and take into consideration the child's
132 desires regarding future custody or parent-time schedules, but the expressed desires are not
133 controlling and the court may determine the child's custody or parent-time otherwise.

134 (ii) The desires of a child 14 years old or older shall be given added weight, but is not
135 the single controlling factor.

136 (c) (i) If an interview with a child is conducted by the court pursuant to Subsection
137 ~~[(5)(b)]~~ (7)(b), the interview shall be conducted by the judge in camera.

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

141 ~~[(6)]~~ (8) (a) Except as provided in Subsection ~~[(6)(b)]~~ (8)(b), a court may not
142 discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding
143 custody or determining whether a substantial change has occurred for the purpose of modifying
144 an award of custody.

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

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

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

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

155 [~~(7)~~] (9) This section does not establish a preference for either parent solely because of
156 the gender of the parent.

157 [~~(8)~~] (10) This section establishes neither a preference nor a presumption for or against
158 joint physical custody or sole physical custody, but allows the court and the family the widest
159 discretion to choose a parenting plan that is in the best interest of the child.

160 [~~(9)~~] (11) When an issue before the court involves custodial responsibility in the event
161 of a deployment of one or both parents who are service members and the service member has
162 not yet been notified of deployment, the court shall resolve the issue based on the standards in
163 Sections 78B-20-306 through 78B-20-309.

164 [~~(10)~~] (12) In considering the past conduct and demonstrated moral standards of each
165 party under Subsection [~~(2)(d)~~] (4)(c) or any other factor a court finds relevant, the court may
166 not:

167 (a) consider or treat a parent's lawful possession or use of cannabis in a medicinal
168 dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in
169 accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies,
170 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection
171 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession
172 or use of any prescribed controlled substance; or

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

174 (i) cannabis production establishment agent, as that term is defined in Section
175 4-41a-102;

176 (ii) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;

177 (iii) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or

178 (iv) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2,
179 Cannabinoid Research and Medical Cannabis.

180 *The following section is affected by a coordination clause at the end of this bill.*

181 Section 2. Section **30-3-10.1** is amended to read:

182 **30-3-10.1. Definitions -- Joint legal custody -- Joint physical custody.**

183 As used in this chapter:

184 (1) "Abuse" means the same as that term is defined in Section [80-1-102](#).

185 (2) (a) "Custodial responsibility" includes all powers and duties relating to caretaking
186 authority and decision-making authority for a child.

187 (b) "Custodial responsibility" includes physical custody, legal custody, parenting time,
188 right to access, visitation, and authority to grant limited contact with a child.

189 [~~2~~] (3) "Domestic violence" means the same as that term is defined in Section
190 [77-36-1](#).

191 (4) "Joint legal custody":

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

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

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

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

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

203 [~~3~~] (5) "Joint physical custody":

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

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

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

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

211 (6) "Protective order" means:

- 212 (a) a civil protective order, as that term is defined in Section [78B-7-102](#);
- 213 (b) an ex parte civil protective order, as that term is defined in Section [78B-7-102](#); or
- 214 (c) a foreign protection order, as that term is defined in Section [78B-7-302](#).

215 (7) "Psychological maltreatment" means a repeated pattern or extreme incident of
216 caretaker behavior that:

217 (a) intentionally thwarts a child's basic psychological needs, including physical and
218 psychological safety, cognitive stimulation, and respect;

219 (b) conveys that a child is worthless, defective, or expendable; and

220 (c) may terrorize a child.

221 [~~4~~] (8) "Service member" means a member of a uniformed service.

222 (9) "Sexual abuse" means the same as that term is defined in Section [80-1-102](#).

223 [~~5~~] (10) "Uniformed service" means:

224 (a) active and reserve components of the United States Armed Forces;

225 (b) the United States Merchant Marine;

226 (c) the commissioned corps of the United States Public Health Service;

227 (d) the commissioned corps of the National Oceanic and Atmospheric Administration
228 of the United States; or

229 (e) the National Guard of a state.

230 Section 3. Section **30-3-10.10** is amended to read:

231 **30-3-10.10. Parenting plan -- Domestic violence.**

232 (1) In any proceeding regarding a parenting plan, the court shall consider evidence of
233 domestic violence in accordance with Section [30-3-41](#), if presented.

234 (2) If there is a protective order, civil stalking injunction, or the court finds that a
235 parent has committed domestic violence, the court shall consider the impact of domestic
236 violence in awarding parent-time, and make specific findings regarding the award of
237 parent-time.

238 (3) If the court orders parent-time and a protective order or civil stalking injunction is
239 still in place, it shall consider whether to order the parents to conduct parent-time pick-up and
240 transfer through a third party. The parent who is the stated victim in the order or injunction
241 may submit to the court, and the court shall consider, the name of a person considered suitable
242 to act as the third party.

243 (4) If the court orders the parents to conduct parent-time through a third party, the
 244 parenting plan shall specify the time, day, place, manner, and the third party to be used to
 245 implement the exchange.

246 *The following section is affected by a coordination clause at the end of this bill.*

247 Section 4. Section **30-3-34** is amended to read:

248 **30-3-34. Parent-time -- Best interests -- Rebuttable presumption.**

249 (1) If the parties are unable to agree on a parent-time schedule, the court may:

250 (a) establish a parent-time schedule; or

251 (b) order a parent-time schedule described in Section [30-3-35](#), [30-3-35.1](#), [30-3-35.2](#), or
 252 [30-3-35.5](#).

253 (2) The advisory guidelines as provided in Section [30-3-33](#) and the parent-time
 254 schedule as provided in Sections [30-3-35](#) and [30-3-35.5](#) shall be considered the minimum
 255 parent-time to which the noncustodial parent and the child shall be entitled.

256 (3) In accordance with Section [30-3-41](#), when ordering a parent-time schedule a court
 257 shall consider:

258 (a) evidence of domestic violence, physical abuse, or sexual abuse involving the child,
 259 a parent, or a household member of the parent; and

260 (b) whether parent-time would endanger the child's health or physical or psychological
 261 safety.

262 (4) A court may consider the following when ordering a parent-time schedule:

263 [~~(a) whether parent-time would endanger the child's physical health or mental health,~~
 264 ~~or significantly impair the child's emotional development;]~~

265 [~~(b) (a) evidence of [domestic violence, neglect, physical abuse, sexual abuse, or~~
 266 ~~emotional abuse, involving the child, a parent, or a household member of the parent]~~
 267 ~~psychological maltreatment;~~

268 [~~(c) (b) the distance between the residency of the child and the noncustodial parent;~~

269 [~~(d) a credible allegation of child abuse has been made;]~~

270 [~~(e) (c) the lack of demonstrated parenting skills without safeguards to ensure the~~
 271 ~~child's well-being during parent-time;~~

272 [~~(f) (d) the financial inability of the noncustodial parent to provide adequate food and~~
 273 ~~shelter for the child during periods of parent-time;~~

274 ~~[(g)]~~ (e) the preference of the child if the court determines the child is of sufficient
275 maturity;

276 ~~[(h)]~~ (f) the incarceration of the noncustodial parent in a county jail, secure youth
277 corrections facility, or an adult corrections facility;

278 ~~[(i)]~~ (g) shared interests between the child and the noncustodial parent;

279 ~~[(j)]~~ (h) the involvement or lack of involvement of the noncustodial parent in the
280 school, community, religious, or other related activities of the child;

281 ~~[(k)]~~ (i) the availability of the noncustodial parent to care for the child when the
282 custodial parent is unavailable to do so because of work or other circumstances;

283 ~~[(l)]~~ (j) a substantial and chronic pattern of missing, canceling, or denying regularly
284 scheduled parent-time;

285 ~~[(m)]~~ (k) the minimal duration of and lack of significant bonding in the parents'
286 relationship before the conception of the child;

287 ~~[(n)]~~ (l) the parent-time schedule of siblings;

288 ~~[(o)]~~ (m) the lack of reasonable alternatives to the needs of a nursing child; and

289 ~~[(p)]~~ (n) any other criteria the court determines relevant to the best interests of the
290 child.

291 ~~[(4)]~~ (5) The court shall enter the reasons underlying the court's order for parent-time
292 that:

293 (a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or

294 (b) provides more or less parent-time than a parent-time schedule provided in Section
295 30-3-35 or 30-3-35.5.

296 ~~[(5)]~~ (6) A court may not order a parent-time schedule unless the court determines by a
297 preponderance of the evidence that the parent-time schedule is in the best interest of the child.

298 ~~[(6)]~~ (7) Once the parent-time schedule has been established, the parties may not alter
299 the schedule except by mutual consent of the parties or a court order.

300 *The following section is affected by a coordination clause at the end of this bill.*

301 Section 5. Section 30-3-34.5 is amended to read:

302 **30-3-34.5. Supervised parent-time.**

303 (1) Considering the fundamental liberty interests of parents and children, it is the
304 policy of this state that divorcing parents have unrestricted and unsupervised access to their

305 children. When necessary to protect a child and no less restrictive means is reasonably
306 available however, and in accordance with Section 30-3-41, a court may order supervised
307 parent-time if the court finds evidence that the child would be subject to physical or emotional
308 harm or child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, [and]
309 76-5-114, and 80-1-102, from the noncustodial parent if left unsupervised with the
310 noncustodial parent.

311 (2) ~~[A court that]~~ If the court finds evidence of domestic violence, child abuse, or an
312 ongoing risk to a child, and orders supervised parent-time, the court shall give preference to
313 ~~[persons suggested by the parties to supervise, including relatives]~~ supervision by a
314 professional individual or private agency trained in child abuse reporting laws, the
315 developmental needs of a child, and the dynamics of domestic violence, child abuse, sexual
316 abuse, and substance abuse.

317 (3) If a professional individual or private agency described in Subsection (2) is not
318 available, affordable, or practicable under the circumstances, a court shall give preference to
319 supervision by an individual who is:

320 (a) capable and willing to provide physical and psychological safety and security to the
321 child, and to assist in the avoidance and prevention of domestic and family violence; and

322 (b) is trained in child abuse reporting laws, the developmental needs of a child, and the
323 dynamics of domestic violence, child abuse, sexual abuse, and substance abuse.

324 (4) ~~[If the court finds that the persons suggested by the parties are]~~ If an individual
325 described in Subsection (2) or (3) is not available, affordable, or practicable under the
326 circumstances, or if the court does not find evidence of domestic violence, child abuse, or an
327 ongoing risk to a child, a court may order supervised visitation that is supervised by an
328 individual who is willing to supervise, and [are] is capable of protecting the [children] child
329 from physical or emotional harm, or child abuse, [the court shall authorize the persons to
330 supervise parent-time] and the court shall give preference to individuals suggested by the
331 parties, including relatives.

332 ~~[(3) If the court is unable to authorize any persons to supervise parent-time pursuant to~~
333 ~~Subsection (2), the court may require that the noncustodial parent seek the services of a~~
334 ~~professional individual or agency to exercise their supervised parent-time.]~~

335 ~~[(4)]~~ (5) At the time supervised parent-time is imposed, the court shall consider:

336 (a) whether the cost of professional or agency services is likely to prevent the
337 noncustodial parent from exercising parent-time; and

338 (b) whether the requirement for supervised parent-time should expire after a set period
339 of time.

340 ~~[(5)]~~ (6) ~~[The]~~ Except when the court makes a finding that, due to abuse by or the
341 incapacity of the noncustodial parent, supervised parent-time will be necessary indefinitely to
342 ensure the physical or psychological safety and protection of the child, the court shall, in its
343 order for supervised parent-time, provide specific goals and expectations for the noncustodial
344 parent to accomplish before unsupervised parent-time may be granted. The court shall schedule
345 one or more follow-up hearings to revisit the issue of supervised parent-time.

346 ~~[(6)]~~ (7) A noncustodial parent may, at any time, petition the court to modify the order
347 for supervised parent-time if the noncustodial parent can demonstrate that the specific goals
348 and expectations set by the court in Subsection ~~[(5)]~~ (6) have been accomplished.
349 *The following section is affected by a coordination clause at the end of this bill.*

350 Section 6. Section **30-3-41** is enacted to read:

351 **30-3-41. Definitions -- Expert evidence -- Violence or abuse findings -- Child**
352 **relationship and reunification.**

353 (1) As used in this section:

354 (a) (i) "Child custody proceeding" means a civil proceeding between the parents of a
355 child that involves the care or custody of the child, including proceedings involving:

356 (A) divorce;

357 (B) separation;

358 (C) visitation;

359 (D) paternity;

360 (E) child support; or

361 (F) legal or physical custody of the child.

362 (ii) "Child custody proceeding" does not include:

363 (A) a child protective, abuse, or neglect proceeding;

364 (B) a juvenile justice proceeding; or

365 (C) a child placement proceeding in which a state, local, or tribal government, a
366 designee of such a government, or any contracted child welfare agency or child protective

367 services agency of such a government is a party to the proceeding.

368 (b) "Forensic" means professional activities undertaken pursuant to a court order or for
 369 use in litigation, including the evaluation or treatment of a parent, child, or other individual
 370 who is involved in a child custody proceeding.

371 (c) "Reunification treatment" means a treatment or therapy aimed at reuniting or
 372 reestablishing a relationship between a child and an estranged or rejected parent or other family
 373 member of the child.

374 (2) In a child custody proceeding, if a parent is alleged to have committed domestic
 375 violence or abuse, including sexual abuse:

376 (a) the court may admit expert evidence from a court-appointed or outside professional
 377 relating to alleged domestic violence or abuse only if the professional possesses demonstrated
 378 expertise and adequate experience in working with victims of domestic violence or abuse,
 379 including sexual abuse, that is not solely of a forensic nature; and

380 (b) in making a finding regarding an allegation of domestic violence or abuse,
 381 including sexual abuse, the court shall consider evidence of past domestic violence, sexual
 382 violence, or abuse committed by the accused parent, including:

383 (i) any past or current protective order against the accused parent; or

384 (ii) any charge, arrest, or conviction of the accused parent for domestic violence, sexual
 385 violence, or abuse.

386 (3) Subsection (2) does not preclude the court from $\hat{H} \rightarrow$:

386a (a) $\leftarrow \hat{H}$ admitting expert evidence, subject

387 to rules of evidence, from a court-appointed or outside professional relating to issues other than
 388 alleged domestic violence or abuse $\hat{H} \rightarrow$ [] ; or

388a **(b) admitting evidence, subject to rules of evidence, that is discovered or otherwise becomes**
 388b **available through treatment or therapy after the court enters an order of custody or parent-**
 388c **time. $\leftarrow \hat{H}$**

389 (4) As part of a child custody proceeding, a court may not, solely in order to improve a
 390 deficient relationship between the other parent and a child:

391 (a) remove the child from a parent or litigating party:

392 (i) who is competent and not physically or sexually abusive; and

393 (ii) with whom the child is bonded; or

394 (b) restrict reasonable contact between the child and a parent or litigating party:

395 (i) who is competent and not physically or sexually abusive; and

396 (ii) with whom the child is bonded.

397 (5) As part of a child custody proceeding:

398 (a) a court may not order a reunification treatment unless there is generally accepted
399 proof of the physical and psychological safety, effectiveness, and therapeutic value of the
400 reunification treatment;

401 (b) a court may not order a reunification treatment that is predicated on cutting off a
402 child from a parent:

403 (i) who is competent and not physically or sexually abusive; and

404 (ii) with whom the child is bonded;

405 (c) any order to remediate the resistance of a child to have contact with a violent or
406 abusive parent shall primarily address the behavior of that parent or the contributions of that
407 parent to the resistance of the child; and

408 (d) any order to a parent who meets the criteria in Subsections (5)(b)(i) and (ii), and
409 that requires the parent to take steps to potentially improve the child's relationship with a
410 violent or abusive parent, shall:

411 (i) prioritize the child's physical and psychological safety and psychological needs; and

412 (ii) be narrowly tailored to address specific behavior.

413 Section 7. Section **78A-2-232** is enacted to read:

414 **78A-2-232. Child abuse and domestic abuse education and training for judges,**
415 **court commissioners, and court personnel.**

416 (1) As used in this section:

417 (a) "Advocacy services provider" means the same as that term is defined in Section
418 [77-38-403](#).

419 (b) "Child custody proceeding" means a civil proceeding between the parents of a child
420 that involves the care or custody of the child including proceedings involving:

421 (i) divorce;

422 (ii) separation;

423 (iii) visitation;

424 (iv) paternity;

425 (v) child support;

426 (vi) legal or physical custody of a child; or

427 (vii) a civil protective order as that term is defined in Section [78B-7-102](#).

428 (2) The state court administrator described in Section [78A-2-105](#) shall develop or

429 recommend a proposed training and education program that:

430 (a) shall be designed to improve the ability of the courts to:

431 (i) recognize domestic violence and child abuse in child custody proceedings; and

432 (ii) make appropriate custody decisions that prioritize a child's physical and

433 psychological safety and well-being;

434 (b) shall focus solely on domestic and sexual violence and child abuse, including:

435 (i) child sexual abuse;

436 (ii) physical abuse;

437 (iii) emotional abuse;

438 (iv) coercive control;

439 (v) implicit and explicit bias, including biases relating to parents with disabilities;

440 (vi) trauma;

441 (vii) long-term and short-term impacts of domestic violence and child abuse on

442 children; and

443 (viii) victim and perpetrator behavior patterns and relationship dynamics within the

444 cycle of violence;

445 (c) shall require training to be provided by a professional with substantial experience in

446 assisting survivors of domestic violence or child abuse, including an advocacy services

447 provider;

448 (d) may include input from a survivor of domestic violence or child physical or sexual

449 abuse; and

450 (e) may incorporate curriculum, best practices, or other materials developed for or used

451 in similar training and education programs.

452 (3) (a) The state court administrator shall present the proposed or recommended

453 training and education program to the Judiciary Interim Committee on or before the

454 committee's September 2024 interim meeting.

455 (b) The presentation described in Subsection (3)(a) shall include:

456 (i) recommendations for the specific personnel positions that will be required to

457 participate in the program;

458 (ii) recommended performance metrics for the program and how those metrics may be

459 tracked;

- 460 (iii) an estimate of the costs to implement the program; and
- 461 (iv) an identification of potential grant sources, if any, that may be available to fund the
- 462 program in whole or in part.

463 *The following section is affected by a coordination clause at the end of this bill.*

464 Section 8. Section **78B-7-121** is enacted to read:

465 **78B-7-121. Requirements for proceedings between the parents of a child.**

466 (1) (a) As used in this section, "relevant proceeding" means a civil proceeding under

467 this chapter:

- 468 (i) between the parents of a child;
- 469 (ii) that involves the care or custody of the child; and
- 470 (iii) that concerns a protective order under this chapter.
- 471 (b) "Relevant proceeding" does not include:
 - 472 (i) any child protective, abuse, or neglect proceeding;
 - 473 (ii) a juvenile justice proceeding; or
 - 474 (iii) any child placement proceeding in which a state, local, or tribal government, a
 - 475 designee of such a government, or any contracted child welfare agency or child protective
 - 476 services agency of such a government is a party to the proceeding.

477 (2) In a relevant proceeding, the court shall comply with the standards described in

478 Section [30-3-41](#).

479 Section 9. **Effective date.**

480 This bill takes effect on May 1, 2024.

481 Section 10. **Coordinating H.B. 272 with S.B. 95 -- Technical amendment.**

482 If H.B. 272, Child Custody Proceedings Amendments, and S.B. 95, Domestic Relations

483 Recodification, both pass and become law, the Legislature intends that, on September 1, 2024:

484 (1) Subsections [30-3-10](#)(1) through (4) in H.B. 272 be amended to read:

485 "[(1) If a married couple having one or more minor children are separated, or the

486 married couple's marriage is declared void or dissolved, the court shall enter, and has

487 continuing jurisdiction to modify, an order of custody and parent-time.]

488 [(2) In determining any form of custody and parent-time under Subsection (1), the court

489 shall consider the best interest of the child and may consider among other factors the court

490 finds relevant, the following for each parent:]

491 (1) In a proceeding between parents in which the custody and parent-time of a minor
492 child is at issue, the court shall consider the best interests of the minor child in determining any
493 form of custody and parent-time.

494 (2) The court shall determine whether an order for custody or parent-time is in the best
495 interests of the minor child by a preponderance of the evidence.

496 (3) In determining any form of custody and parent-time under Subsection (1), the court
497 shall consider:

498 (a) for each parent, and in accordance with Section [81-9-103](#), evidence of domestic
499 violence, physical abuse, or sexual abuse involving the minor child, the parent, or a household
500 member of the parent;

501 (b) whether the parent has intentionally exposed the minor child to pornography or
502 material harmful to minors, as "material" and "harmful to minors" are defined in Section
503 [76-10-1201](#); and

504 (c) whether custody and parent-time would endanger the minor child's health or
505 physical or psychological safety.

506 (4) In determining the form of custody and parent-time that is in the best interests of
507 the minor child, the court may consider, among other factors the court finds relevant, the
508 following for each parent:

509 (a) evidence of [~~domestic violence, neglect, physical abuse, sexual abuse, or emotional~~
510 ~~abuse, involving the child, the parent, or a household member of the parent;]~~ psychological
511 maltreatment;

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

514 (i) physical needs;

515 (ii) emotional needs;

516 (iii) educational needs;

517 (iv) medical needs; and

518 (v) any special needs;

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

520 (i) parenting skills;

521 (ii) co-parenting skills, including:

522 (A) ability to appropriately communicate with the other parent;
523 (B) ability to encourage the sharing of love and affection; and
524 (C) willingness to allow frequent and continuous contact between the minor child and
525 the other parent, except that, if the court determines that the parent is acting to protect the
526 minor child from domestic violence, neglect, or abuse, the parent's protective actions may be
527 taken into consideration; and
528 (iii) ability to provide personal care rather than surrogate care;
529 (d) [~~in accordance with Subsection (10);~~] the past conduct and demonstrated moral
530 character of the parent as described in Subsection (9);
531 (e) the emotional stability of the parent;
532 (f) the parent's inability to function as a parent because of drug abuse, excessive
533 drinking, or other causes;
534 [~~(g) whether the parent has intentionally exposed the child to pornography or material~~
535 ~~harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;~~]
536 [~~(h)~~] (g) the parent's reasons for having relinquished custody or parent-time in the past;
537 [~~(i)~~] (h) duration and depth of desire for custody or parent-time;
538 [~~(j)~~] (i) the parent's religious compatibility with the minor child;
539 [~~(k)~~] (j) the parent's financial responsibility;
540 [~~(l)~~] (k) the child's interaction and relationship with step-parents, extended family
541 members of other individuals who may significantly affect the minor child's best interests;
542 [~~(m)~~] (l) who has been the primary caretaker of the minor child;
543 [~~(n)~~] (m) previous parenting arrangements in which the minor child has been happy
544 and well-adjusted in the home, school, and community;
545 [~~(o)~~] (n) the relative benefit of keeping siblings together;
546 [~~(p)~~] (o) the stated wishes and concerns of the minor child, taking into consideration
547 the minor child's cognitive ability and emotional maturity;
548 [~~(q)~~] (p) the relative strength of the minor child's bond with the parent, meaning the
549 depth, quality, and nature of the relationship between the parent and the minor child; and
550 [~~(r)~~] (q) any other factor the court finds relevant.";
551 (2) all references to "child" in Subsections 30-3-10.1(7) and 30-3-34(3) in H.B. 272 be
552 changed to "minor child";

553 (3) the changes to Subsection 30-3-34(4)(a) in H.B. 272 supersede the changes to
554 Subsection 81-9-206(3)(b) in S.B. 95;

555 (4) all references to "child" in Subsection 30-3-34.5(3)(a) in H.B. 272 be changed to
556 "minor child";

557 (5) Subsection 30-3-34.5(4) in H.B. 272 be amended to read:

558 "(4) [~~If the court finds that the persons suggested by the parties are~~] If an individual
559 described in Subsection (2) or (3) is not available, affordable, or practicable under the
560 circumstances, or if the court does not find evidence of domestic violence, child abuse, or an
561 ongoing risk to a minor child, a court may order supervised visitation that is supervised by an
562 individual who is willing to supervise, and [~~are~~] is capable of protecting the [~~children~~] minor
563 child from physical or emotional harm, or child abuse, [~~the court shall authorize the persons to~~
564 supervise parent-time] and the court shall give preference to individuals suggested by the
565 parties, including relatives.";

566 (6) all references to "child" in Subsection 30-3-34.5(6) in H.B. 272 be changed to
567 "minor child";

568 (7) Section 30-3-41 enacted in H.B. 272 be renumbered to 81-9-103 and be amended to
569 read:

570 "~~[30-3-41:] 81-9-103. Expert evidence -- Violence or abuse findings -- Child~~
571 **relationship and reunification.**

572 (1) As used in this section:

573 (a) (i) "Child custody proceeding" means a civil proceeding between the parents of a
574 minor child that involves the care or custody of the minor child, including proceedings
575 involving:

576 (A) divorce;

577 (B) separation;

578 (C) visitation;

579 (D) paternity;

580 (E) child support; or

581 (F) legal or physical custody of the minor child.

582 (ii) "Child custody proceeding" does not include:

583 (A) a child protective, abuse, or neglect proceeding;

584 (B) a juvenile justice proceeding; or

585 (C) a child placement proceeding in which a state, local, or tribal government, a
 586 designee of such a government, or any contracted child welfare agency or child protective
 587 services agency of such a government is a party to the proceeding.

588 (b) "Forensic" means professional activities undertaken pursuant to a court order or for
 589 use in litigation, including the evaluation or treatment of a parent, minor child, or other
 590 individual who is involved in a child custody proceeding.

591 (c) "Reunification treatment" means a treatment or therapy aimed at reuniting or
 592 reestablishing a relationship between a minor child and an estranged or rejected parent or other
 593 family member of the minor child.

594 (2) In a child custody proceeding, if a parent is alleged to have committed domestic
 595 violence or abuse, including sexual abuse:

596 (a) the court may admit expert evidence from a court-appointed or outside professional
 597 relating to alleged domestic violence or abuse only if the professional possesses demonstrated
 598 expertise and adequate experience in working with victims of domestic violence or abuse,
 599 including sexual abuse, that is not solely of a forensic nature; and

600 (b) in making a finding regarding an allegation of domestic violence or abuse,
 601 including sexual abuse, the court shall consider evidence of past domestic violence, sexual
 602 violence, or abuse committed by the accused parent, including:

603 (i) any past or current protective order against the accused parent; or

604 (ii) any charge, arrest, or conviction of the accused parent for domestic violence, sexual
 605 violence, or abuse.

606 (3) Subsection (2) does not preclude the court from $\hat{H} \rightarrow$:

606a (a) $\leftarrow \hat{H}$ admitting expert evidence, subject

607 to rules of evidence, from a court-appointed or outside professional relating to issues other than
 608 alleged domestic violence or abuse $\hat{H} \rightarrow$ [:] ; or

608a **(b) admitting evidence, subject to rules of evidence, that is discovered or otherwise becomes**
 608b **available through treatment or therapy after the court enters an order of custody or parent-**
 608c **time. $\leftarrow \hat{H}$**

609 (4) As part of a child custody proceeding, a court may not, solely in order to improve a
 610 deficient relationship between the other parent and a minor child:

611 (a) remove the minor child from a parent or litigating party:

612 (i) who is competent and not physically or sexually abusive; and

613 (ii) with whom the minor child is bonded; or

614 (b) restrict reasonable contact between the minor child and a parent or litigating party:

615 (i) who is competent and not physically or sexually abusive; and
616 (ii) with whom the minor child is bonded.
617 (5) As part of a child custody proceeding:
618 (a) a court may not order a reunification treatment unless there is generally accepted
619 proof of the physical and psychological safety, effectiveness, and therapeutic value of the
620 reunification treatment;
621 (b) a court may not order a reunification treatment that is predicated on cutting off a
622 minor child from a parent:
623 (i) who is competent and not physically or sexually abusive; and
624 (ii) with whom the minor child is bonded;
625 (c) any order to remediate the resistance of a minor child to have contact with a violent
626 or abusive parent shall primarily address the behavior of that parent or the contributions of that
627 parent to the resistance of the minor child; and
628 (d) any order to a parent who meets the criteria in Subsections (5)(b)(i) and (ii), and
629 that requires the parent to take steps to potentially improve the minor child's relationship with a
630 violent or abusive parent, shall:
631 (i) prioritize the minor child's physical and psychological safety and psychological
632 needs; and
633 (ii) be narrowly tailored to address specific behavior.";
634 (8) the reference in Subsection [78B-7-121\(2\)](#) in H.B. 272 change from "Section
635 [30-3-41](#)" to "Section [81-9-103](#).";
636 (9) Subsection [81-9-205\(2\)\(a\)\(i\)](#) in S.B. 95 be amended to read:
637 "(i) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional
638 abuse involving the minor child, a parent, or a household member of the parent in accordance
639 with Section [81-9-103](#);"; and
640 (10) Subsection [81-9-207\(1\)](#) in S.B. 95 be amended to read:
641 "(1) If it is necessary to protect a minor child and there is no less restrictive means
642 reasonably available, and in accordance with Section [81-9-103](#), a court may order
643 supervised parent-time if the court finds evidence that the minor child would be subject to
644 physical or emotional harm or child abuse, as described in Sections [76-5-109](#), [76-5-109.2](#),
645 [76-5-109.3](#), [76-5-114](#), and [80-1-102](#), from the noncustodial parent if left unsupervised with the

646 noncustodial parent."