

HB0140S01 compared with HB0140

~~{deleted text}~~ shows text that was in HB0140 but was deleted in HB0140S01.

inserted text shows text that was not in HB0140 but was inserted into HB0140S01.

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~~{PARENTAL NOTIFICATION AMENDMENTS}~~ Representative Stephanie Gricius proposes the following substitute bill:

AMENDMENTS TO CUSTODY AND PARENT-TIME

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses ~~{parental notification in regard to a }~~custody and parent-time ~~{arrangement}~~arrangements.

Highlighted Provisions:

This bill:

- ▶ addresses the continuing jurisdiction of a court over a custody or parent-time order;
- ▶ provides that a substantial and material change in circumstances for a custody order includes a parent residing with an individual, or providing the individual with access to the parent's child, when the individual has been convicted of certain crimes;
- ▶ amends the advisory guidelines for a custody and parent-time arrangement to allow for parental notification when a parent is residing with an individual, or providing

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the individual with access to the parent's child, and the individual has been convicted of certain crimes;

- ▶ amends the advisory guidelines for a custody and parent-time arrangement in regard to notification of a parent in the event of a medical emergency; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[30-3-10.4, as last amended by Laws of Utah 2023, Chapter 44](#)

[30-3-33, as last amended by Laws of Utah 2017, Chapter 224](#)

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

[Section 1. Section 30-3-10.4 is amended to read:](#)

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

[\(1\) The court has continuing jurisdiction to make subsequent changes to modify:](#)

[\(a\) custody of a child if there is a showing of a substantial and material change in circumstances since the entry of the order; and](#)

[\(b\) parent-time for a child if there is a showing that there is a change in circumstances since the entry of the order.](#)

[\(2\) A substantial and material change in circumstances under Subsection \(1\)\(a\) includes a showing by a parent that the other parent:](#)

[\(a\) resides with an individual or provides an individual with access to the child; and](#)

[\(b\) knows that the individual:](#)

[\(i\) is required to register as a sex offender or a kidnap offender for an offense against a child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;](#)

[\(ii\) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or](#)

[\(iii\) has been convicted of:](#)

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(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a child under Title 76, Chapter 5, Part 4, Sexual Offenses;

(C) an offense for kidnapping or human trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections (2)(b)(iii)(A) through (D).

~~[(1)]~~ (3) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:

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

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

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

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

~~[(2)]~~ (4) (a) In determining whether the best interest of a child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors outlined in Section 30-3-10 and Subsection 30-3-10.2(2).

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

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

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

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

~~[(3)]~~ [(5)] The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Subsection 30-3-10(3). The court may modify the terms and conditions of the existing order in accordance with Subsection 30-3-10(8) and may order the parents to file a parenting plan in accordance with this chapter.

~~[(4)]~~ [(6)] A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

~~[(5)]~~ [(7)] If the court finds that an action under this section is filed or answered frivolously and in a manner designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

~~[(6)]~~ [(8)] If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are service members, and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

Section ~~[(1)]~~ [(2)]. Section **30-3-33** is amended to read:

30-3-33. Advisory guidelines for a custody and parent-time arrangement.

[(1)] In addition to the parent-time schedules provided in Sections 30-3-35 and 30-3-35.5, the following advisory guidelines are suggested to govern ~~[all parent-time arrangements]~~ a custody and parent-time arrangement between parents.

~~[(1)]~~ [(2)] ~~[Parent-time schedules]~~ A parent-time schedule mutually agreed upon by both parents ~~[are]~~ is preferable to a court-imposed solution.

~~[(2)]~~ [(3)] ~~[The]~~ A parent-time schedule shall be used to maximize the continuity and stability of the child's life.

~~[(3)]~~ [(4)] ~~[Special consideration shall be given by each parent]~~ Each parent shall give special consideration to make the child available to attend family functions including funerals,

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weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the child or in the life of either parent which may inadvertently conflict with the parent-time schedule.

~~[(4)]~~ (5) (a) The court shall determine the responsibility for the pick up, delivery, and return of the child ~~[shall be determined by the court]~~ when the parent-time order is entered~~;~~ and may be changed.

(b) The court may change the responsibility described in Subsection (5)(a) at any time a subsequent modification is made to the parent-time order.

~~[(5)]~~ (c) If the noncustodial parent will be providing transportation, the custodial parent shall:

(i) have the child ready for parent-time at the time the child is to be picked up ~~[and shall]~~; and

(ii) be present at the custodial home or ~~[shall]~~ make reasonable alternate arrangements to receive the child at the time the child is returned.

~~[(6)]~~ (d) If the custodial parent will be transporting the child, the noncustodial parent shall:

(i) be at the appointed place at the time the noncustodial parent is to receive the child~~;~~ and

(ii) have the child ready to be picked up at the appointed time and place~~;~~ or have made reasonable alternate arrangements for the custodial parent to pick up the child.

~~[(7)]~~ (6) ~~[Regular]~~ A parent may not interrupt regular school hours ~~[may not be interrupted]~~ for a school-age child for the exercise of parent-time ~~[by either parent]~~.

~~[(8)]~~ (7) The court may:

(a) make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents ~~[and may]~~; and

(b) increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections 30-3-35 and 30-3-35.5.

~~[(9)]~~ (8) The court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time.

~~[(10)]~~ (9) ~~[Neither parent-time nor child support is to be withheld due to either]~~ A parent may not withhold parent-time or child support due to the other parent's failure to comply

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with a court-ordered parent-time schedule.

~~[(11)]~~ (10)(a) The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the child is participating or being honored~~[, and the]~~.

(b) The noncustodial parent ~~[shall be]~~ is entitled to attend and participate fully in the functions described in Subsection (10)(a).

~~[(12)]~~ (c) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records ~~[and shall be notified immediately by the custodial parent]~~.

(d) A parent shall immediately notify the other parent in the event of a medical emergency.

~~[(13)]~~ (11) Each parent shall provide the other with the parent's current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change.

~~[(14)]~~ (12)(a) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available~~[, provided that if the parties]~~.

(b) If the parents cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available~~;~~ by taking into consideration:

~~[(a)]~~ (i) the best interests of the child;

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

~~[(c)]~~ (iii) any other factors the court considers material.

~~[(15)]~~ (13)(a) Parental care ~~[shall be]~~ is presumed to be better care for the child than surrogate care ~~[and the]~~.

(b) The court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the children, to provide the child care.

(c) Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.

~~[(16)]~~ (14) Each parent shall:

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(a) provide all surrogate care providers with the name, current address, and telephone number of the other parent [~~and shall~~]; and

(b) provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the court for good cause orders otherwise.

~~[(17)]~~ (15) (a) Each parent [~~shall be~~] is entitled to an equal division of major religious holidays celebrated by the parents [~~, and the~~].

(b) The parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the child on the religious holiday.

~~[(18)]~~ (16) If the child is on a different parent-time schedule than a sibling, based on Sections 30-3-35 and 30-3-35.5, the parents should consider if an upward deviation for parent-time with all the minor children so that parent-time is uniform between school aged and nonschool aged children, is appropriate.

~~[(19)]~~ (17) (a) When one or both parents are servicemembers or contemplating joining a uniformed service, the parents should resolve issues of custodial responsibility in the event of deployment as soon as practicable through reaching a voluntary agreement pursuant to Section 78B-20-201 or through court order obtained pursuant to Section 30-3-10.

(b) [~~Servicemembers~~] Service members shall ensure their family care plan reflects orders and agreements entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.

(18) A parent shall immediately notify the other parent if:

(a) the parent resides with an individual or provides an individual with access to the child; and

(b) the parent knows that the individual:

(i) is required to register as a sex offender or a kidnap offender for an offense against a child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or

(iii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a child under Title 76, Chapter 5, Part 4, Sexual Offenses;

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(C) an offense for kidnapping or human trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections (18)(b)(iii)(A) through (D).

Section ~~2~~3. **Effective date.**

This bill takes effect on May 1, 2024.