

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 custody and parent-time 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

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



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

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

31 [30-3-33](#), as last amended by Laws of Utah 2017, Chapter 224



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

34 Section 1. Section **30-3-10.4** is amended to read:

35 **30-3-10.4. Modification or termination of order.**

36 (1) The court has continuing jurisdiction to make subsequent changes to modify:

37 (a) custody of a child if there is a showing of a substantial and material change in
38 circumstances since the entry of the order; and

39 (b) parent-time for a child if there is a showing that there is a change in circumstances
40 since the entry of the order.

41 (2) A substantial and material change in circumstances under Subsection (1)(a)
42 includes a showing by a parent that the other parent:

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

44 (b) knows that the individual:

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

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

49 (iii) has been convicted of:

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

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

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

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

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

59 ~~[(1)]~~ (3) On the petition of one or both of the parents, or the joint legal or physical
60 custodians if they are not the parents, the court may, after a hearing, modify or terminate an
61 order that established joint legal custody or joint physical custody if:

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

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

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

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

74 ~~[(2)]~~ (4) (a) In determining whether the best interest of a child will be served by either
75 modifying or terminating the joint legal custody or joint physical custody order, the court shall,
76 in addition to other factors the court considers relevant, consider the factors outlined in Section
77 30-3-10 and Subsection 30-3-10.2(2).

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

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

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

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

85 ~~[(3)]~~ (5) The court shall, in every case regarding a petition for termination of a joint
86 legal custody or joint physical custody order, consider reasonable alternatives to preserve the
87 existing order in accordance with Subsection 30-3-10(3). The court may modify the terms and

88 conditions of the existing order in accordance with Subsection 30-3-10(8) and may order the
89 parents to file a parenting plan in accordance with this chapter.

90 ~~[(4)]~~ (6) A parent requesting a modification from sole custody to joint legal custody or
91 joint physical custody or both, or any other type of shared parenting arrangement, shall file and
92 serve a proposed parenting plan with the petition to modify in accordance with Section
93 30-3-10.8.

94 ~~[(5)]~~ (7) If the court finds that an action under this section is filed or answered
95 frivolously and in a manner designed to harass the other party, the court shall assess attorney
96 fees as costs against the offending party.

97 ~~[(6)]~~ (8) If an issue before the court involves custodial responsibility in the event of
98 deployment of one or both parents who are service members, and the service member has not
99 yet been notified of deployment, the court shall resolve the issue based on the standards in
100 Sections 78B-20-306 through 78B-20-309.

101 Section 2. Section 30-3-33 is amended to read:

102 **30-3-33. Advisory guidelines for a custody and parent-time arrangement.**

103 (1) In addition to the parent-time schedules provided in Sections 30-3-35 and
104 30-3-35.5, the following advisory guidelines are suggested to govern ~~[all parent-time~~
105 ~~arrangements]~~ a custody and parent-time arrangement between parents.

106 ~~[(1)]~~ (2) ~~[Parent-time schedules]~~ A parent-time schedule mutually agreed upon by both
107 parents ~~[are]~~ is preferable to a court-imposed solution.

108 ~~[(2)]~~ (3) ~~[The]~~ A parent-time schedule shall be used to maximize the continuity and
109 stability of the child's life.

110 ~~[(3)]~~ (4) ~~[Special consideration shall be given by each parent]~~ Each parent shall give
111 special consideration to make the child available to attend family functions including funerals,
112 weddings, family reunions, religious holidays, important ceremonies, and other significant
113 events in the life of the child or in the life of either parent which may inadvertently conflict
114 with the parent-time schedule.

115 ~~[(4)]~~ (5) (a) The court shall determine the responsibility for the pick up, delivery, and
116 return of the child ~~[shall be determined by the court]~~ when the parent-time order is entered;
117 ~~and may be changed].~~

118 (b) The court may change the responsibility described in Subsection (5)(a) at any time

119 a subsequent modification is made to the parent-time order.

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

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

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

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

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

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

132 ~~[(7)]~~ (6) ~~[Regular]~~ A parent may not interrupt regular school hours ~~[may not be~~
133 ~~interrupted]~~ for a school-age child for the exercise of parent-time ~~[by either parent]~~.

134 ~~[(8)]~~ (7) The court may:

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

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

139 ~~[(9)]~~ (8) The court may make alterations in the parent-time schedule to reasonably
140 accommodate the distance between the parties and the expense of exercising parent-time.

141 ~~[(10)]~~ (9) ~~[Neither parent-time nor child support is to be withheld due to either]~~ A
142 parent may not withhold parent-time or child support due to the other parent's failure to comply
143 with a court-ordered parent-time schedule.

144 ~~[(11)]~~ (10) (a) The custodial parent shall notify the noncustodial parent within 24 hours
145 of receiving notice of all significant school, social, sports, and community functions in which
146 the child is participating or being honored~~[, and the]~~.

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

149 ~~[(12)]~~ (c) The noncustodial parent shall have access directly to all school reports

150 including preschool and daycare reports and medical records [~~and shall be notified immediately~~
151 ~~by the custodial parent~~].

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

154 [~~(13)~~] (11) Each parent shall provide the other with the parent's current address and
155 telephone number, email address, and other virtual parent-time access information within 24
156 hours of any change.

157 [~~(14)~~] (12) (a) Each parent shall permit and encourage, during reasonable hours,
158 reasonable and uncensored communications with the child, in the form of mail privileges and
159 virtual parent-time if the equipment is reasonably available[~~, provided that if the parties~~].

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

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

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

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

167 [~~(15)~~] (13) (a) Parental care [~~shall be~~] is presumed to be better care for the child than
168 surrogate care [~~and the~~].

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

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

173 [~~(16)~~] (14) Each parent shall:

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

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

178 [~~(17)~~] (15) (a) Each parent [~~shall be~~] is entitled to an equal division of major religious
179 holidays celebrated by the parents[~~, and the~~].

180 (b) The parent who celebrates a religious holiday that the other parent does not

181 celebrate shall have the right to be together with the child on the religious holiday.

182 ~~[(18)]~~ (16) If the child is on a different parent-time schedule than a sibling, based on
183 Sections 30-3-35 and 30-3-35.5, the parents should consider if an upward deviation for
184 parent-time with all the minor children so that parent-time is uniform between school aged and
185 nonschool aged children, is appropriate.

186 ~~[(19)]~~ (17) (a) When one or both parents are servicemembers or contemplating joining
187 a uniformed service, the parents should resolve issues of custodial responsibility in the event of
188 deployment as soon as practicable through reaching a voluntary agreement pursuant to Section
189 78B-20-201 or through court order obtained pursuant to Section 30-3-10.

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

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

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

196 (b) the parent knows that the individual:

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

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

201 (iii) has been convicted of:

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

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

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

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

209 (E) an offense that is substantially similar to an offense under Subsections

210 (18)(b)(iii)(A) through (D).

211 Section 3. **Effective date.**

212

This bill takes effect on May 1, 2024.