

1 **AMENDMENTS TO CUSTODY AND PARENT-TIME**
2 2024 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: Stephanie Gricius**
5 Senate Sponsor: Todd D. Weiler

2
3 **LONG TITLE**

4 **General Description:**

5 This bill addresses custody and parent-time arrangements.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ addresses the continuing jurisdiction of a court over a custody or parent-time order;
- 9 ▶ provides that a substantial and material change in circumstances for a custody order

10 includes a parent residing with an individual, or providing the individual with access to the
11 parent's child, when the individual has been convicted of certain crimes;

- 12 ▶ amends the advisory guidelines for a custody and parent-time arrangement to allow for
13 parental notification when a parent is residing with an individual, or providing the individual
14 with access to the parent's child, and the individual has been convicted of certain crimes;

- 15 ▶ amends the advisory guidelines for a custody and parent-time arrangement in regard to
16 notification of a parent in the event of a medical emergency; and

- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **30-3-10.4**, as last amended by Laws of Utah 2023, Chapter 44

25 **30-3-33**, as last amended by Laws of Utah 2017, Chapter 224

26
27 *Be it enacted by the Legislature of the state of Utah:*

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

29 **30-3-10.4 . Modification or termination of order.**

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

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

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

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

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

38 (b) knows that the individual:

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

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

43 (iii) has been convicted of:

44 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
45 76-5-114, or 76-5-208;

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

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

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

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

54 [(4)] (3) On the petition of one or both of the parents, or the joint legal or physical

55 custodians if they are not the parents, the court may, after a hearing, modify or terminate
56 an order that established joint legal custody or joint physical custody if:

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

61 (b) a modification of the terms and conditions of the order would be an improvement for

62 and in the best interest of the child; and
63 (c) (i) both parents have complied in good faith with the dispute resolution procedure
64 in accordance with Subsection 30-3-10.3(7); or
65 (ii) if no dispute resolution procedure is contained in the order that established joint
66 legal custody or joint physical custody, the court orders the parents to participate
67 in a dispute resolution procedure in accordance with Subsection 30-3-10.2(5)
68 unless the parents certify that, in good faith, they have used a dispute resolution
69 procedure to resolve their dispute.

70 ~~[(2)]~~ (4) (a) In determining whether the best interest of a child will be served by either
71 modifying or terminating the joint legal custody or joint physical custody order, the
72 court shall, in addition to other factors the court considers relevant, consider the
73 factors outlined in Section 30-3-10 and Subsection 30-3-10.2(2).

74 (b) A court order modifying or terminating an existing joint legal custody or joint
75 physical custody order shall contain written findings that:
76 (i) a material and substantial change of circumstance has occurred; and
77 (ii) a modification of the terms and conditions of the order would be an improvement
78 for and in the best interest of the child.

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

81 ~~[(3)]~~ (5) The court shall, in every case regarding a petition for termination of a joint legal
82 custody or joint physical custody order, consider reasonable alternatives to preserve the
83 existing order in accordance with Subsection 30-3-10(3). The court may modify the
84 terms and conditions of the existing order in accordance with Subsection 30-3-10(8) and
85 may order the parents to file a parenting plan in accordance with this chapter.

86 ~~[(4)]~~ (6) A parent requesting a modification from sole custody to joint legal custody or joint
87 physical custody or both, or any other type of shared parenting arrangement, shall file
88 and serve a proposed parenting plan with the petition to modify in accordance with
89 Section 30-3-10.8.

90 ~~[(5)]~~ (7) If the court finds that an action under this section is filed or answered frivolously
91 and in a manner designed to harass the other party, the court shall assess attorney fees as
92 costs against the offending party.

93 ~~[(6)]~~ (8) If an issue before the court involves custodial responsibility in the event of
94 deployment of one or both parents who are service members, and the service member
95 has not yet been notified of deployment, the court shall resolve the issue based on the

96 standards in Sections 78B-20-306 through 78B-20-309.

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

98 **30-3-33 . Advisory guidelines for a custody and parent-time arrangement.**

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

102 ~~[(1)]~~ (2) ~~[Parent-time schedules]~~ A parent-time schedule mutually agreed upon by both
103 parents ~~[are]~~ is preferable to a court-imposed solution.

104 ~~[(2)]~~ (3) ~~[The]~~ A parent-time schedule shall be used to maximize the continuity and stability
105 of the child's life.

106 ~~[(3)]~~ (4) ~~[Special consideration shall be given by each parent]~~ Each parent shall give special
107 consideration to make the child available to attend family functions including funerals,
108 weddings, family reunions, religious holidays, important ceremonies, and other
109 significant events in the life of the child or in the life of either parent which may
110 inadvertently conflict with the parent-time schedule.

111 ~~[(4)]~~ (5) (a) The court shall determine the responsibility for the pick up, delivery, and
112 return of the child ~~[shall be determined by the court]~~ when the parent-time order is
113 entered~~[, and may be changed]~~ .

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

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

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

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

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

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

125 (ii) have the child ready to be picked up at the appointed time and place~~[~~
126 ~~]~~ or have
127 made reasonable alternate arrangements for the custodial parent to pick up the
128 child.

129 ~~[(7)]~~ (6) ~~[Regular]~~ A parent may not interrupt regular school hours ~~[may not be interrupted]~~
130 for a school-age child for the exercise of parent-time~~[by either parent]~~.

- 131 ~~[(8)]~~ (7) The court may:
- 132 (a) make alterations in the parent-time schedule to reasonably accommodate the work
133 schedule of both parents~~[-and may-]~~ ; and
- 134 (b) increase the parent-time allowed to the noncustodial parent but may not diminish the
135 standardized parent-time provided in Sections 30-3-35 and 30-3-35.5.
- 136 ~~[(9)]~~ (8) The court may make alterations in the parent-time schedule to reasonably
137 accommodate the distance between the parties and the expense of exercising parent-time.
- 138 ~~[(10)]~~ (9) ~~[Neither parent-time nor child support is to be withheld due to either]~~ A parent
139 may not withhold parent-time or child support due to the other parent's failure to comply
140 with a court-ordered parent-time schedule.
- 141 ~~[(11)]~~ (10) (a) The custodial parent shall notify the noncustodial parent within 24 hours
142 of receiving notice of all significant school, social, sports, and community functions
143 in which the child is participating or being honored~~[-and the]~~ .
- 144 (b) The noncustodial parent [shall be] is entitled to attend and participate fully in the
145 functions described in Subsection (10)(a).
- 146 ~~[(12)]~~ (c) The noncustodial parent shall have access directly to all school reports
147 including preschool and daycare reports and medical records ~~[and shall be notified~~
148 ~~immediately by the custodial parent]~~ .
- 149 (d) A parent shall immediately notify the other parent in the event of a medical
150 emergency.
- 151 ~~[(13)]~~ (11) Each parent shall provide the other with the parent's current address and
152 telephone number, email address, and other virtual parent-time access information
153 within 24 hours of any change.
- 154 ~~[(14)]~~ (12) (a) Each parent shall permit and encourage, during reasonable hours,
155 reasonable and uncensored communications with the child, in the form of mail
156 privileges and virtual parent-time if the equipment is reasonably available~~[-, provided~~
157 ~~that if the parties]~~ .
- 158 (b) If the parents cannot agree on whether the equipment is reasonably available, the
159 court shall decide whether the equipment for virtual parent-time is reasonably
160 available~~[-]~~ by taking into consideration:
- 161 ~~[(a)]~~ (i) the best interests of the child;
- 162 ~~[(b)]~~ (ii) each parent's ability to handle any additional expenses for virtual
163 parent-time; and
- 164 ~~[(c)]~~ (iii) any other factors the court considers material.

- 165 [(15)] (13) (a) Parental care ~~[shall be]~~ is presumed to be better care for the child than
166 surrogate care ~~[and the]~~ .
- 167 (b) The court shall encourage the parties to cooperate in allowing the noncustodial
168 parent, if willing and able to transport the children, to provide the child care.
- 169 (c) Child care arrangements existing during the marriage are preferred as are child care
170 arrangements with nominal or no charge.
- 171 [(16)] (14) Each parent shall :
- 172 (a) provide all surrogate care providers with the name, current address, and telephone
173 number of the other parent ~~[and shall]~~ ; and
- 174 (b) provide the noncustodial parent with the name, current address, and telephone
175 number of all surrogate care providers unless the court for good cause orders
176 otherwise.
- 177 [(17)] (15) (a) Each parent ~~[shall be]~~ is entitled to an equal division of major religious
178 holidays celebrated by the parents~~[-and the]~~ .
- 179 (b) The parent who celebrates a religious holiday that the other parent does not celebrate
180 shall have the right to be together with the child on the religious holiday.
- 181 [(18)] (16) If the child is on a different parent-time schedule than a sibling, based on
182 Sections 30-3-35 and 30-3-35.5, the parents should consider if an upward deviation for
183 parent-time with all the minor children so that parent-time is uniform between school
184 aged and nonschool aged children, is appropriate.
- 185 [(19)] (17) (a) When one or both parents are servicemembers or contemplating joining a
186 uniformed service, the parents should resolve issues of custodial responsibility in the
187 event of deployment as soon as practicable through reaching a voluntary agreement
188 pursuant to Section 78B-20-201 or through court order obtained pursuant to Section
189 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
192 Deployed 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
198 a 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,
- 203 76-5-114, or 76-5-208;
- 204 (B) a sexual offense against a child under Title 76, Chapter 5, Part 4, Sexual
- 205 Offenses;
- 206 (C) an offense for kidnapping or human trafficking of a child under Title 76,
- 207 Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 208 (D) a sexual exploitation offense against a child under Title 76, Chapter 5b,
- 209 Sexual Exploitation Act; or
- 210 (E) an offense that is substantially similar to an offense under Subsections
- 211 (18)(b)(iii)(A) through (D).

212 Section 3. **Effective date.**

213 This bill takes effect on May 1, 2024.