

I_133_3438

**133rd General Assembly
Regular Session
2019-2020**

. B. No.

A BILL

To amend sections 3105.65, 3109.03, 3109.04, 1
3109.041, 3109.042, 3109.043, 3109.051, 3109.09, 2
3109.12, 3109.401, 3109.56, 3111.24, 3111.26, 3
3111.49, 3119.01, 3119.051, 3119.22, 3119.23, 4
3119.24, 3119.63, 3310.51, 3313.98, and 5120.653 5
and to repeal section 3119.231 of the Revised 6
Code to ensure that court orders and decrees 7
that allocate parental rights and 8
responsibilities with respect to the care and 9
custody of children provide for equality between 10
the parents except where clear and convincing 11
evidence shows that equal legal and physical 12
custody would be harmful to the children. 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3105.65, 3109.03, 3109.04, 14
3109.041, 3109.042, 3109.043, 3109.051, 3109.09, 3109.12, 15
3109.401, 3109.56, 3111.24, 3111.26, 3111.49, 3119.01, 3119.051, 16
3119.22, 3119.23, 3119.24, 3119.63, 3310.51, 3313.98, and 17
5120.653 of the Revised Code be amended to read as follows: 18



hkkjhgsmec7lthy2brxrkw

Sec. 3105.65. (A) If, at the time of the hearing, either 19
spouse is not satisfied with the separation agreement or does 20
not wish a dissolution of the marriage and if neither spouse 21
files a motion pursuant to division (C) of this section to 22
convert the action to an action for divorce, the court shall 23
dismiss the petition and refuse to validate the proposed 24
separation agreement. 25

(B) If, upon review of the testimony of both spouses and 26
of the report of the investigator pursuant to the Rules of Civil 27
Procedure, the court approves the separation agreement and any 28
amendments to it agreed upon by the parties, it shall grant a 29
decree of dissolution of marriage that incorporates the 30
separation agreement. If the separation agreement contains a 31
plan for the exercise of ~~shared parenting~~ equal legal and 32
physical custody by the spouses, the court shall review the plan 33
in accordance with the provisions of division (D)(1) of section 34
3109.04 of the Revised Code that govern the review of a pleading 35
or motion requesting ~~shared parenting~~ equal legal and physical 36
custody jointly submitted by both spouses to a marriage. A 37
decree of dissolution of marriage has the same effect upon the 38
property rights of the parties, including rights of dower and 39
inheritance, as a decree of divorce. The court has full power to 40
enforce its decree and retains jurisdiction to modify all 41
matters pertaining to the allocation of parental rights and 42
responsibilities for the care of and equal legal and physical 43
custody of the children, to the designation of a residential 44
parent and legal custodian of the children, to child support, to 45
parenting time of parents with the children, and to visitation 46
for persons who are not the children's parents. The court, only 47
in accordance with division (E)(2) of section 3105.18 of the 48
Revised Code, may modify the amount or terms of spousal support. 49

The court may modify the division of property provided in the 50
separation agreement only upon the express written consent or 51
agreement of both spouses. 52

(C) At any time before a decree of dissolution of marriage 53
has been granted under division (B) of this section, either 54
spouse may convert the action for dissolution of marriage into a 55
divorce action by filing a motion with the court in which the 56
action for dissolution of marriage is pending for conversion of 57
the action for dissolution of marriage. The motion shall contain 58
a complaint for divorce that contains grounds for a divorce and 59
that otherwise complies with the Rules of Civil Procedure and 60
this chapter. The divorce action then shall proceed in 61
accordance with the Rules of Civil Procedure in the same manner 62
as if the motion had been the original complaint in the action, 63
including, but not limited to, the issuance and service of 64
summons pursuant to Civil Rules 4 to 4.6, except that no court 65
fees shall be charged upon conversion of the action for 66
dissolution of marriage into a divorce action under this 67
division. 68

Sec. 3109.03. When husband and wife are living separate 69
and apart from each other, ~~or are divorced,~~ or when the parents 70
have never been married to each other and are living separate 71
and apart from each other, and the question as to the parental 72
rights and responsibilities for the care and equal legal and 73
physical custody of their children and the place of residence 74
and legal custodian of their children is brought before a court 75
of competent jurisdiction, they shall stand upon an equality as 76
to the parental rights and responsibilities for the care of 77
their children and the place of residence and legal custodian of 78
their children, so far as parenthood is involved. 79

Except as otherwise provided in section 3109.04 of the 80
Revised Code, in making at any stage of a proceeding any order 81
or decree that allocates parental rights and responsibilities 82
regarding the care and custody of the children of the parents, a 83
court shall grant equal legal and physical custody unless it 84
finds by clear and convincing evidence that equal legal and 85
physical custody would be harmful to the children. Any order of 86
less than equal legal and physical custody shall be supported by 87
a finding of facts and conclusion of law by the court. 88

Sec. 3109.04. (A) In any divorce, legal separation, or 89
annulment proceeding and in any proceeding pertaining to the 90
allocation of parental rights and responsibilities for the care 91
and equal legal and physical custody of a child, upon hearing 92
the testimony of either or both parents and considering any 93
mediation report filed pursuant to section 3109.052 of the 94
Revised Code and in accordance with sections 3127.01 to 3127.53 95
of the Revised Code, the court shall allocate the parental 96
rights and responsibilities for the care and equal legal and 97
physical custody of the minor children of the marriage. ~~Subject~~ 98
~~to~~ in accordance with division (D)(2) ~~(D)~~ of this section, ~~the~~ 99
~~court may allocate the parental rights and responsibilities for~~ 100
~~the care of the children in either of the following ways:~~ 101

~~(1) If neither parent files a pleading or motion in~~ 102
~~accordance with division (G) of this section, if at least one~~ 103
~~parent files a pleading or motion under that division but no~~ 104
~~parent who filed a pleading or motion under that division also~~ 105
~~files a plan for shared parenting, or if at least one parent~~ 106
~~files both a pleading or motion and a shared parenting plan~~ 107
~~under that division but no plan for shared parenting is in the~~ 108
~~best interest of the children, the court, in a manner consistent~~ 109
~~with the best interest of the children, shall allocate the~~ 110

~~parental rights and responsibilities for the care of the~~ 111
~~children primarily to one of the parents, designate that parent~~ 112
~~as the residential parent and the legal custodian of the child,~~ 113
~~and divide between the parents the other rights and~~ 114
~~responsibilities for the care of the children, including, but~~ 115
~~not limited to, the responsibility to provide support for the~~ 116
~~children and the right of the parent who is not the residential~~ 117
~~parent to have continuing contact with the children.~~ 118

~~(2) If at least one parent files a pleading or motion in~~ 119
~~accordance with division (G) of this section and a plan for~~ 120
~~shared parenting pursuant to that division and if a plan for~~ 121
~~shared parenting is in the best interest of the children and is~~ 122
~~approved by the court in accordance with division (D) (1) of this~~ 123
~~section, the court may allocate the parental rights and~~ 124
~~responsibilities for the care of the children to both parents~~ 125
~~and issue a shared parenting order requiring the parents to~~ 126
~~share all or some of the aspects of the physical and legal care~~ 127
~~of the children in accordance with the approved plan for shared~~ 128
~~parenting.~~ 129

If the court issues a shared parenting an order for equal 130
legal and physical custody under this ~~division section~~ and it is 131
necessary for the purpose of receiving public assistance, the 132
court shall designate which one of the parents' residences is to 133
serve as the child's home. This designation shall be for 134
purposes of receiving public assistance and school district 135
taxation purposes only and shall not affect the designation 136
under division (L) (4) of this section of each parent as the 137
"residential parent," the "residential parent and legal 138
custodian," or the "custodial parent" of the child. The child 139
support obligations of the parents under a shared parenting an 140
order for equal legal and physical custody issued under this 141

~~division section shall be determined in accordance with Chapters 142
3119., 3121., 3123., and 3125. of the Revised Code and shall 143
grant appropriate child support deviations for the extended time 144
as designated by the equal legal and physical custody plan or as 145
agreed upon by the parents as provided in section 3119.24 of the 146
Revised Code. 147~~

(B) (1) When making the allocation of the parental rights 148
and responsibilities for the care and legal and physical custody 149
of the children under this section in an original proceeding or 150
in any proceeding for modification of a prior order of the court 151
~~making the allocation, the court shall take into account that~~ 152
~~which would be in the best interest of the children. In~~ 153
~~determining the child's best interest for purposes of making its~~ 154
~~allocation of the parental rights and responsibilities for the~~ 155
~~care of the child and for purposes of resolving any issues~~ 156
~~related to the making of that allocation, the court, in its~~ 157
discretion, may and, upon the request of either party, shall 158
interview in chambers any or all of the involved children 159
regarding their wishes and concerns with respect to the 160
allocation, but only if the court determines, based on clear and 161
convincing evidence, that the child sought to be interviewed is 162
of a mature enough age to voice the child's wishes and concerns. 163

(2) If the court interviews any child after making the 164
determination pursuant to division (B) (1) of this section, all 165
of the following apply: 166

(a) The court, ~~in its discretion, may and,~~ upon the 167
written motion of either parent, shall appoint a guardian ad 168
litem for the child. If the court appoints a guardian ad litem 169
for the child, the court shall order that the costs of the 170
guardian ad litem shall be divided equally between the parents. 171

(b) The court first shall determine the reasoning ability 172
of the child. If the court determines that the child does not 173
have sufficient reasoning ability to express the child's wishes 174
and ~~concern~~ concerns with respect to the allocation of parental 175
rights and responsibilities for the legal and physical care of 176
the child, it shall not determine the child's wishes and 177
concerns with respect to the allocation. If the court determines 178
that the child has sufficient reasoning ability to express the 179
child's wishes or concerns with respect to the allocation, it 180
then shall determine whether, ~~because of special circumstances,~~ 181
~~it would not be in the best interest of the child to determine~~ 182
~~the child's wishes and concerns with respect to the allocation,~~ 183
exist. If the court determines that, because of special 184
circumstances, it would not be in the best interest of the child 185
to determine the child's wishes and concerns with respect to the 186
allocation, it shall not determine the child's wishes and 187
concerns with respect to the allocation and shall enter its 188
written findings of fact and opinion in the journal. If the 189
court determines that it would be in the best interests of the 190
child to determine the child's wishes and concerns with respect 191
to the allocation, it shall proceed to make that determination. 192

(c) The interview shall be conducted in chambers, and no 193
person other than the child, the child's attorney, the judge, 194
any necessary court personnel, and, in the judge's discretion, 195
the attorney of each parent shall be permitted to be present in 196
the chambers during the interview. 197

(3) No person shall obtain or attempt to obtain from a 198
child a written or recorded statement or affidavit setting forth 199
the child's wishes and concerns regarding the allocation of 200
parental rights and responsibilities concerning the child. No 201
court, in ~~determining the child's best interest for purposes of~~ 202

making its allocation of the parental rights and 203
responsibilities for the legal and physical care of the child or 204
for purposes of resolving any issues related to the making of 205
that allocation, shall accept or consider a written or recorded 206
statement or affidavit that purports to set forth the child's 207
wishes and concerns regarding those matters. 208

(C) Prior to trial, the court may cause an investigation 209
to be made as to the character, family relations, past conduct, 210
earning ability, and financial worth of each parent ~~and may~~ 211
~~order the parents and their minor children to~~. If either parent 212
files a written motion requesting that the parents submit to 213
medical, psychological, and psychiatric examinations, the court, 214
in its discretion, may order the examinations to be conducted 215
and may divide the costs of the examinations equally between the 216
parents or tax the full cost to the parent who made the motion. 217
The report of the investigation and examinations shall be made 218
available to either parent or the parent's counsel of record not 219
less than ~~five~~ fifteen days before trial, ~~upon written request.~~ 220
The report shall be signed by the investigator, and the 221
investigator shall be subject to cross-examination by either 222
parent concerning the contents of the report. The court may tax 223
as costs all or any part of the expenses for each investigation. 224
An investigator shall conduct an investigation independent of 225
the court and in a non-gender biased manner. 226

If the court determines that either parent previously has 227
been convicted of or pleaded guilty to any criminal offense 228
involving any act that resulted in a child being a neglected 229
child, that either parent previously has been determined to be 230
the perpetrator of the neglectful act that is the basis of an 231
adjudication that a child is a neglected child, or that there is 232
reason to believe that either parent has acted in a manner 233

resulting in a child being a neglected child, the court shall 234
consider that fact against naming that parent the residential 235
parent and against granting ~~a shared parenting~~ an equal legal 236
and physical custody decree. When the court allocates parental 237
rights and responsibilities for the care of children or 238
determines whether to grant ~~shared parenting~~ equal legal and 239
physical custody in any proceeding, it shall consider whether 240
either parent or any member of the household of either parent 241
has been convicted of or pleaded guilty to a violation of 242
section 2919.25 of the Revised Code or a sexually oriented 243
offense involving a victim who at the time of the commission of 244
the offense was a member of the family or household that is the 245
subject of the proceeding, has been convicted of or pleaded 246
guilty to any sexually oriented offense or other offense 247
involving a victim who at the time of the commission of the 248
offense was a member of the family or household that is the 249
subject of the proceeding and caused physical harm to the victim 250
in the commission of the offense, or has been determined to be 251
the perpetrator of the abusive act that is the basis of an 252
adjudication that a child is an abused child. If the court 253
determines that either parent has been convicted of or pleaded 254
guilty to a violation of section 2919.25 of the Revised Code or 255
a sexually oriented offense involving a victim who at the time 256
of the commission of the offense was a member of the family or 257
household that is the subject of the proceeding, has been 258
convicted of or pleaded guilty to any sexually oriented offense 259
or other offense involving a victim who at the time of the 260
commission of the offense was a member of the family or 261
household that is the subject of the proceeding and caused 262
physical harm to the victim in the commission of the offense, or 263
has been determined to be the perpetrator of the abusive act 264
that is the basis of an adjudication that a child is an abused 265

child, it may designate that parent as the residential parent 266
and may issue ~~a shared parenting~~ an equal legal and physical 267
custody decree or order only if it determines that it is in the 268
best interest of the child to name that parent the residential 269
parent or to issue ~~a shared parenting~~ an equal legal and 270
physical custody decree or order and it makes specific written 271
findings of fact to support its determination. 272

(D) (1) (a) ~~Upon the filing of a pleading or motion by~~ 273
~~either parent or both parents, in accordance with division (G)~~ 274
~~of this section, requesting shared parenting and the filing of a~~ 275
~~shared parenting plan in accordance with that division, the~~ The 276
court shall ~~comply with division (D) (1) (a) (i), (ii), or (iii) of~~ 277
~~this section, whichever is applicable~~ allocate parental rights 278
and responsibilities as follows: 279

(i) If, under division (G) of this section, both parents 280
jointly ~~make the request~~ equal legal and physical custody in 281
their pleadings or jointly file ~~the~~ a motion for equal legal and 282
physical custody and also jointly file ~~the~~ a plan for equal 283
legal and physical custody, the court shall ~~review the parents'~~ 284
~~plan to determine if it is in the best interest of the children.~~ 285
~~If the court determines that the plan is in the best interest of~~ 286
~~the children, the court shall approve it. If the court~~ 287
~~determines that the plan or any part of the plan is not in the~~ 288
~~best interest of the children, the court shall require the~~ 289
~~parents to make appropriate changes to the plan to meet the~~ 290
~~court's objections to it. If changes to the plan are made to~~ 291
~~meet the court's objections, and if the new plan is in the best~~ 292
~~interest of the children, the court shall approve the plan. If~~ 293
~~changes to the plan are not made to meet the court's objections,~~ 294
~~or if the parents attempt to make changes to the plan to meet~~ 295
~~the court's objections, but the court determines that the new~~ 296

~~plan or any part of the new plan still is not in the best-~~ 297
~~interest of the children, the court may reject the portion of-~~ 298
~~the parents' pleadings or deny their motion requesting shared-~~ 299
~~parenting of the children and proceed as if the request in the-~~ 300
~~pleadings or the motion had not been made. The court shall not-~~ 301
~~approve a plan under this division unless it determines that the~~ 302
~~plan is in the best interest of the children~~approve the plan. If 303
the court, prior to approving the plan, finds by clear and 304
convincing evidence that equal legal and physical custody would 305
be harmful to the children, the court shall proceed in 306
accordance with division (D)(1)(a)(v) of this section. If the 307
court approves the plan or rejects the plan and proceeds in 308
accordance with division (D)(1)(a)(v) of this section, the court 309
shall enter in the record of the case findings of fact and 310
conclusions of law as to the reasons for the approval or 311
rejection of the plan. 312

(ii) If, under division (G) of this section, each parent 313
makes a request in the parent's pleadings or files a motion and 314
each also files a separate plan, the court shall review each 315
plan filed ~~to determine if either is in the best interest of the~~ 316
~~children. If the court determines that one of the filed plans is~~ 317
~~in the best interest~~provides for more equality with regards to 318
equal and legal custody of the children, the court may shall 319
approve ~~the that~~ plan. If the court determines that neither 320
filed plan ~~is in the best interest of the children~~provides for 321
equal legal and physical custody, the court ~~may shall~~ order each 322
parent to submit appropriate changes to the parent's plan or 323
both of the filed plans to meet the court's objections, or may 324
select one of the filed plans and order each parent to submit 325
appropriate changes to the selected plan to meet the court's 326
objections. If changes to the plan or plans are submitted to 327

meet the court's objections, and if any of the filed plans with 328
the changes ~~is in the best interest of~~ provides for equal legal 329
and physical access to the children, the court ~~may~~ shall approve 330
the plan with the changes. ~~If changes to the plan or plans are~~ 331
~~not submitted to meet the court's objections, or if the parents~~ 332
~~submit changes to the plan or plans to meet the court's~~ 333
~~objections but the court determines that none of the filed plans~~ 334
~~with the submitted changes is in the best interest of the~~ 335
~~children, the court may reject the portion of the parents'~~ 336
~~pleadings or deny their motions requesting shared parenting of~~ 337
~~the children and proceed as if the requests in the pleadings or~~ 338
~~the motions had not been made.~~ If the court, prior to approving 339
the plan, finds by clear and convincing evidence that equal 340
legal and physical custody would be harmful to the children, the 341
court shall proceed in accordance with division (D)(1)(a)(v) of 342
this section. 343

If the court approves a plan under ~~this division~~ (D)(1)(a) 344
(ii) of this section, either as originally filed or with 345
submitted changes, or if the court rejects the portion of the 346
parents' pleadings or denies their motions requesting ~~shared~~ 347
~~parenting~~ equal legal and physical custody under ~~this division~~ 348
(D)(1)(a)(ii) of this section and proceeds ~~as if the requests in~~ 349
~~the pleadings or the motions had not been made~~ in accordance 350
with division (D)(1)(a)(v) of this section, the court shall 351
enter in the record of the case findings of fact and conclusions 352
of law as to the reasons for the approval or the rejection or 353
denial. Division (D)(1)(b) of this section applies in relation 354
to the approval or disapproval of a plan under ~~this division~~ (D) 355
(1)(a)(ii) of this section. 356

(iii) If, under division (G) of this section, each parent 357
makes a request for equal legal and physical custody in the 358

parent's pleadings or files a motion for equal legal and 359
physical custody but only one parent files a plan for equal 360
legal and physical custody, ~~or if only one parent makes a~~ 361
~~request in the parent's pleadings or files a motion and also~~ 362
~~files a plan,~~ the court in the best interest of the children may 363
order the other parent to file a plan for ~~shared parenting~~ equal 364
legal and physical custody in accordance with division (G) of 365
this section. The court shall review each plan filed to 366
determine if any plan ~~is in the best interest of the~~ 367
~~children~~ provides for more equality with regard to equal legal 368
and physical custody of the children. If the court determines 369
that one of the filed plans ~~is in the best interest~~ provides for 370
more equality with regard to the equal and legal custody of the 371
children, the court ~~may~~ shall approve the plan. If the court 372
determines that no filed plan ~~is in the best interest of the~~ 373
~~children~~ provides for equal legal and physical custody, the court 374
may order each parent to submit appropriate changes to the 375
parent's plan or both of the filed plans to meet the court's 376
objections or may select one filed plan and order each parent to 377
submit appropriate changes to the selected plan to meet the 378
court's objections. 379

~~If changes to the plan or plans are submitted to meet the~~ 380
~~court's objections, and if any of the filed plans with the~~ 381
~~changes is in the best interest of the children, the court may~~ 382
~~approve the plan with the changes. If changes to the plan or~~ 383
~~plans are not submitted to meet the court's objections, or if~~ 384
~~the parents submit changes to the plan or plans to meet the~~ 385
~~court's objections but the court determines that none of the~~ 386
~~filed plans with the submitted changes is in the best interest~~ 387
~~of the children, the court may reject the portion of the~~ 388
~~parents' pleadings or deny the parents' motion or reject the~~ 389

~~portion of the parents' pleadings or deny their motions~~ 390
~~requesting shared parenting of the children and proceed as if~~ 391
~~the request or requests or the motion or motions had not been~~ 392
~~made~~ the court, prior to approving the plan, finds by clear and 393
convincing evidence that equal legal and physical custody would 394
be harmful to the children, the court shall proceed in 395
accordance with division (D) (1) (a) (v) of this section. 396

If the court approves a plan under ~~this~~ division (D) (1) (a) 397
(iii) of this section, either as originally filed or with 398
submitted changes, or if the court rejects the portion of the 399
pleadings or denies the motion or motions requesting ~~shared~~ 400
~~parenting~~ equal legal and physical custody under ~~this~~ division 401
(D) (1) (a) (iii) of this section and proceeds as if the request or 402
~~requests or the motion or motions had not been made~~ in accordance 403
with division (D) (1) (a) (v) of this section, the court shall 404
enter in the record of the case findings of fact and conclusions 405
of law as to the reasons for the approval or the rejection or 406
denial. Division (D) (1) (b) of this section applies in relation 407
to the approval or disapproval of a plan under ~~this~~ division (D) 408
(1) (a) (iii) of this section. 409

(iv) If only one parent files a pleading or motion in 410
accordance with division (G) of this section and a plan for 411
equal legal and physical custody, the court shall approve the 412
plan, unless the court determines that the plan does not provide 413
for equal legal and physical custody. If the court determines 414
that the plan does not provide for equal legal and physical 415
custody, the court may order the parent to submit appropriate 416
changes to the plan to meet the court's objections. If the 417
changes to the plan are submitted to meet the court's objections 418
and if the filed plan with changes provides for equal legal and 419
physical custody, the court shall approve the plan with the 420

changes. If the court, prior to approving the plan, finds by 421
clear and convincing evidence that equal legal and physical 422
custody would be harmful to the children, the court shall 423
proceed under division (D) (1) (a) (v) of this section. 424

If the court approves the plan under division (D) (1) (a) 425
(iv) of this section, either as originally filed or with the 426
submitted changes, or if the court rejects the portion of the 427
pleadings or denies the motion or motions for equal legal and 428
physical custody under division (D) (1) (a) (iv) of this section 429
and proceeds in accordance with division (D) (1) (a) (v) of this 430
section, the court shall enter in the record of the case finding 431
of facts and conclusions of law as to the reasons for the 432
approval or denial of a plan under division (D) (1) (a) (iv) of 433
this section. 434

(v) If neither parent files a pleading or motion in 435
accordance with division (G) of this section, or if the court 436
finds by clear and convincing evidence that equal legal and 437
physical custody would be harmful to the children, the court 438
shall allocate parental rights and responsibilities in a manner 439
consistent with the best interests of the children. 440

The court shall enter into the record all findings of 441
facts and conclusions of law related to the allocation of 442
parental rights and responsibilities under division (D) (1) (a) (v) 443
of this section. 444

~~(b) The approval of a plan under division (D) (1) (a) (ii) or~~ 445
~~(iii) of this section is discretionary with the court. The court~~ 446
~~shall not approve more than one plan under either division and~~ 447
~~shall not approve a plan under either division unless it~~ 448
~~determines that the plan is in the best interest of the~~ 449
~~children. If the court, under either division, does not~~ 450

~~determine that any filed plan or any filed plan with submitted changes is in the best interest of the children, the court shall not approve any plan (D) (1) (a) (ii) or (iii) of this section.~~ 451
452
453

(c) ~~Whenever possible, the~~ The court shall require that a 454
~~shared parenting plan for equal legal and physical custody~~ 455
approved under division (D) (1) (a) (i), (ii), ~~or (iii), or (iv)~~ of 456
this section ensure ~~the opportunity for both parents to have~~ 457
~~frequent and continuing contact with the child, unless frequent~~ 458
~~and continuing contact with any parent would not be in the best~~ 459
~~interest of the child, to the greatest extent possible, that the~~ 460
~~parental rights and responsibilities for the care and custody of~~ 461
~~the children are allocated to the parents on an equal basis~~ 462
~~unless the parents mutually agree otherwise.~~ 463

(d) If a court approves a ~~shared parenting plan for equal~~ 464
~~legal and physical custody~~ under division (D) (1) (a) (i), (ii), ~~or~~ 465
(iii), ~~or (iv)~~ of this section, the approved plan shall be 466
incorporated into a final ~~shared parenting equal legal and~~ 467
~~physical custody~~ decree granting the parents ~~the shared~~ 468
~~parenting equal legal and physical custody~~ of the children. Any 469
final ~~shared parenting equal legal and physical custody~~ decree 470
shall be issued at the same time as and shall be appended to the 471
final decree of dissolution, divorce, annulment, or legal 472
separation arising out of the action out of which the question 473
of the allocation of parental rights and responsibilities for 474
the care of the children arose. 475

~~No provisional shared parenting decree shall be issued in~~ 476
~~relation to any shared parenting plan approved under division~~ 477
~~(D) (1) (a) (i), (ii), or (iii) of this section. A final shared~~ 478
~~parenting decree issued under this division has immediate effect~~ 479
~~as a final decree on the date of its issuance, subject to~~ 480

~~modification or termination as authorized by this section.~~ 481

(2) If the court finds by clear and convincing evidence, 482
with respect to any child under eighteen years of age, that it 483
is in the best interest of the child for neither parent to be 484
designated the residential parent and legal custodian of the 485
child, it may temporarily commit the child to a relative of the 486
child ~~or~~ and shall certify a copy of its findings, together with 487
as much of the record and the further information, in narrative 488
form or otherwise, that it considers necessary or as the 489
juvenile court requests, to the juvenile court for further 490
proceedings, and, upon the certification, the juvenile court has 491
exclusive jurisdiction. 492

(E) (1) (a) The court shall not modify a prior decree 493
allocating parental rights and responsibilities for the care of 494
children unless it finds, based on facts that have arisen since 495
the prior decree or that were unknown to the court at the time 496
of the prior decree, that a substantial change has occurred in 497
the circumstances of the child, ~~the child's residential parent,~~ 498
~~or either of the parents subject to a shared parenting decree,~~ 499
and that the modification is necessary to serve the best 500
interest of the child. ~~In applying these standards, the court~~ 501
~~shall retain the residential parent designated by the prior~~ 502
~~decree or the prior shared parenting decree, unless a~~ 503
~~modification is in the best interest of the child and one of the~~ 504
~~following applies:~~ 505

~~(i) The residential parent agrees to a change in the~~ 506
~~residential parent or both parents under a shared parenting~~ 507
~~decree agree to a change in the designation of residential~~ 508
~~parent.~~ 509

~~(ii) The child, with the consent of the residential parent~~ 510

~~or of both parents under a shared parenting decree, has been~~ 511
~~integrated into the family of the person seeking to become the~~ 512
~~residential parent.~~ 513

~~(iii) The harm likely to be caused by a change of~~ 514
~~environment is outweighed by the advantages of the change of~~ 515
~~environment to the child.~~ 516

(b) One or both of the parents under a prior decree 517
allocating parental rights and responsibilities for the care of 518
children that is not ~~a shared parenting~~ an equal legal and 519
physical custody decree may file a motion requesting that the 520
prior decree be modified to give both parents ~~shared rights and~~ 521
~~responsibilities for the care~~ equal legal and physical custody 522
of the children. The motion shall include both a request for 523
modification of the prior decree and a request for ~~a shared~~ 524
~~parenting~~ an order for equal legal and physical custody that 525
complies with division (G) of this section. Upon the filing of 526
the motion, if the court determines that a modification of the 527
prior decree is authorized under division (E) (1) (a) of this 528
section, the court may modify the prior decree to grant ~~a shared~~ 529
~~parenting~~ an order for equal legal and physical custody, 530
provided that the court shall not modify the prior decree to 531
grant ~~a shared parenting~~ an order for equal legal and physical 532
custody unless the court complies with divisions (A) and (D) (1) 533
of this section and, in accordance with those divisions, 534
approves the submitted ~~shared parenting~~ plan for equal legal and 535
physical custody and determines that ~~shared parenting~~ equal 536
legal and physical custody would be in the best interest of the 537
children. 538

(c) If the court allocates parental rights and 539
responsibilities for the care and equal legal and physical 540

custody of the children under division (E) (1) of this section in 541
an unequal manner on the grounds that one of the parents is 542
unsuitable for equal legal and physical custody by clear and 543
convincing evidence, the court shall create a plan to eliminate 544
the reasons for unsuitability. When the unsuitable parent 545
removes the grounds for the finding of unsuitability, the court, 546
upon motion by that parent, shall consider a request to modify 547
its order or decree to provide for equal legal and physical 548
custody. 549

(2) In addition to a modification authorized under 550
division (E) (1) of this section: 551

(a) Both parents under ~~a shared parenting~~ an equal legal 552
and physical custody decree jointly may modify the terms of the 553
plan for ~~shared parenting~~ equal legal and physical custody 554
approved by the court and incorporated by it into the ~~shared~~ 555
~~parenting~~ equal legal and physical custody decree. Modifications 556
under this division may be made at any time. The modifications 557
to the plan shall be filed jointly by both parents with the 558
court, and the court shall include them in the plan, unless they 559
are not in the best interest of the children. If the 560
modifications are not in the best interests of the children, the 561
court, in its discretion, may reject the modifications or make 562
modifications to the proposed modifications or the plan that are 563
in the best interest of the children. Modifications jointly 564
submitted by both parents under ~~a shared parenting~~ an equal 565
legal and physical custody decree shall be effective, either as 566
originally filed or as modified by the court, upon their 567
inclusion by the court in the plan. Modifications to the plan 568
made by the court shall be effective upon their inclusion by the 569
court in the plan. 570

(b) The court may modify the terms of the plan for ~~shared-parenting equal legal and physical custody~~ approved by the court and incorporated by it into the ~~shared-parenting equal legal and physical custody~~ decree upon ~~its own~~ a motion by one or both of the parents at any time if the court determines that the modifications are in the best interest of the children ~~or upon the request of one or both of the parents under the decree.~~ Modifications under this division may be made at any time. The court shall not make any modification to the plan under this division, unless the modification is in the best interest of the children.

(c) The court may terminate a prior final ~~shared-parenting equal legal and physical custody~~ decree that includes a ~~shared-parenting plan~~ for equal legal and physical custody approved under division (D) (1) (a) (i) of this section upon the request of one or both of the parents or whenever it determines by clear and convincing evidence that ~~shared-parenting equal legal and physical custody~~ is not in the best interest of the children. The court may terminate a prior final ~~shared-parenting equal legal and physical custody~~ decree that includes a ~~shared-parenting plan~~ for equal legal and physical custody approved under division (D) (1) (a) (ii) or (iii) of this section if it determines by clear and convincing evidence, ~~upon its own motion or~~ upon the request of one or both parents, that ~~shared-parenting equal legal and physical custody~~ is not in the best interest of the children. If modification of the terms of the plan for ~~shared-parenting equal legal and physical custody~~ approved by the court and incorporated by it into the final ~~shared-parenting equal legal and physical custody~~ decree is attempted under division (E) (2) (a) of this section and the court rejects the modifications, it may terminate the final ~~shared-~~

~~parenting equal legal and physical custody~~ decree if it 602
determines by clear and convincing evidence that ~~shared-~~ 603
~~parenting equal legal and physical custody~~ is not in the best 604
interest of the children. 605

(d) Upon the termination of a prior final ~~shared parenting~~ 606
equal legal and physical custody decree under division (E) (2) (c) 607
of this section, the court shall proceed and issue a modified 608
decree for the allocation of parental rights and 609
responsibilities for the care of the children ~~under the-~~ 610
~~standards applicable under divisions (A), (B), and (C) of this-~~ 611
~~section as if no decree for shared parenting had been granted-~~ 612
~~and as if no request for shared parenting ever had been made and~~ 613
shall follow the procedures as specified under division (E) (2) 614
(b) of this section. 615

(e) If the court allocates parental rights and 616
responsibilities for the care and custody of the children under 617
division (E) (2) of this section in an unequal manner on the 618
grounds that one parent is unsuitable for equal legal and 619
physical custody, and that parent removes the grounds for the 620
finding of unsuitability, the court, upon motion by that parent, 621
shall modify its order or decree to provide for equal legal and 622
physical custody. 623

(F) (1) In all determinations concerning the allocation of 624
parental rights and responsibilities for the legal and physical 625
care of the children, there shall be a presumption that an equal 626
allocation between the parents of rights and responsibilities 627
for the care and custody of the children is in the best interest 628
of the children. In the absence of clear and convincing evidence 629
that an equal allocation would be harmful to the children, the 630
court shall allocate parental rights and responsibilities for 631

the care and custody of the children in a manner that is equal 632
at all times during the proceedings before the court. In 633
determining the best interest of a child pursuant to this 634
section when there is clear and convincing evidence that equal 635
legal and physical custody would be harmful to the child, 636
whether on an original decree allocating parental rights and 637
responsibilities for the care and custody of children or a 638
modification of a decree allocating those rights and 639
responsibilities, the court shall consider all relevant factors, 640
including, but not limited to: 641

(a) The wishes of the child's parents regarding the 642
child's care; 643

(b) If the court has interviewed the child in chambers 644
pursuant to division (B) of this section regarding the child's 645
wishes and concerns as to the allocation of parental rights and 646
responsibilities concerning the child, the wishes and concerns 647
of the child, as expressed to the court; 648

(c) The child's interaction and interrelationship with the 649
child's parents, siblings, and any other person who may 650
significantly affect the child's best interest; 651

(d) The child's adjustment to the child's home, school, 652
and community; 653

(e) The mental and physical health of all persons involved 654
in the situation; 655

(f) The parent more likely to honor and facilitate court- 656
approved parenting time rights or visitation and companionship 657
rights; 658

(g) Whether either parent has failed to make all child 659
support payments, including all arrearages, that are required of 660

that parent pursuant to a child support order under which that 661
parent is an obligor and whether that parent had the ability to 662
pay the support ordered; 663

(h) Whether either parent or any member of the household 664
of either parent previously has been convicted of or pleaded 665
guilty to any criminal offense involving any act that resulted 666
in a child being an abused child or a neglected child; whether 667
either parent, in a case in which a child has been adjudicated 668
an abused child or a neglected child, previously has been 669
determined to be the perpetrator of the abusive or neglectful 670
act that is the basis of an adjudication; whether either parent 671
or any member of the household of either parent previously has 672
been convicted of or pleaded guilty to a violation of section 673
2919.25 of the Revised Code or a sexually oriented offense 674
involving a victim who at the time of the commission of the 675
offense was a member of the family or household that is the 676
subject of the current proceeding; whether either parent or any 677
member of the household of either parent previously has been 678
convicted of or pleaded guilty to any offense involving a victim 679
who at the time of the commission of the offense was a member of 680
the family or household that is the subject of the current 681
proceeding and caused physical harm to the victim in the 682
commission of the offense; and whether there is reason to 683
believe that either parent has acted in a manner resulting in a 684
child being an abused child or a neglected child; 685

(i) Whether the residential parent or one of the parents 686
subject to ~~a shared parenting~~ an equal legal and physical 687
custody decree has continuously and willfully denied the other 688
parent's right to parenting time in accordance with an order of 689
the court; 690

(j) Whether either parent has established a residence, or 691
is planning to establish a residence, outside this state or a 692
contiguous county area within the state or a state that shares a 693
contiguous border with the county of residence at the time of 694
filing. 695

(2) In determining whether ~~shared parenting equal legal~~ 696
~~and physical custody is~~ in the best interest of the children, 697
the court shall consider all relevant factors, including, but 698
not limited to, the factors enumerated in division (F) (1) of 699
this section, the factors enumerated in section 3119.23 of the 700
Revised Code, and all of the following factors: 701

(a) ~~The ability of the parents to cooperate and make~~ 702
~~decisions jointly, with respect to the children;~~ 703

~~(b)~~ The ability of each parent to encourage the sharing of 704
love, affection, and contact between the child and the other 705
parent; 706

~~(e)~~ ~~(b)~~ Any clear and convincing evidence of a history of, 707
or potential for, child abuse, spouse abuse, other domestic 708
violence, or parental kidnapping by either parent; 709

~~(d)~~ ~~(c)~~ The geographic proximity of the parents to each 710
other if it extends outside of a contiguous county area, as the 711
proximity relates to the practical considerations of ~~shared~~ 712
~~parenting~~ equal legal and physical custody; 713

~~(e)~~ ~~(d)~~ The recommendation of the guardian ad litem of the 714
child, if the child has a guardian ad litem and if the 715
recommendations come from a gender-neutral and thorough 716
investigation of both parents. 717

(3) When allocating parental rights and responsibilities 718
for the care and legal and physical custody of children, the 719

court shall not give preference to a parent because of that 720
parent's financial status, gender, or condition. 721

(G) Either parent or both parents of any children may file 722
a pleading or motion with the court requesting the court to 723
grant both parents ~~shared parental rights and responsibilities~~ 724
~~for the care~~ equal legal and physical custody of the children in 725
a proceeding held pursuant to division (A) of this section. If a 726
pleading or motion requesting ~~shared parenting~~ equal legal and 727
physical custody is filed, the parent or parents filing the 728
pleading or motion also shall file with the court a plan for the 729
exercise of ~~shared parenting~~ equal legal and physical custody by 730
both parents. If each parent files a pleading or motion 731
requesting ~~shared parenting~~ equal legal and physical custody but 732
only one parent files a plan or if only one parent files a 733
pleading or motion requesting ~~shared parenting~~ equal legal and 734
physical custody and also files a plan, the other parent as 735
ordered by the court shall file with the court a plan for the 736
exercise of ~~shared parenting~~ equal legal and physical custody by 737
both parents. The plan for ~~shared parenting~~ equal legal and 738
physical custody shall be filed with the petition for 739
dissolution of marriage, if the question of parental rights and 740
responsibilities for the care of the children arises out of an 741
action for dissolution of marriage, or, in other cases, at a 742
time at least thirty days prior to the hearing on the issue of 743
the parental rights and responsibilities for the care of the 744
children. A plan for ~~shared parenting~~ equal legal and physical 745
custody shall include provisions covering all factors that are 746
relevant to the care of the children, including, but not limited 747
to, provisions covering factors such as physical living 748
arrangements, child support obligations, provision for the 749
children's medical and dental care, school placement, and the 750

parent with which the children will be physically located during 751
legal holidays, school holidays, and other days of special 752
importance. 753

(H) If an appeal is taken from a decision of a court that 754
grants or modifies a decree allocating parental rights and 755
responsibilities for the care of children, the court of appeals 756
shall give the case calendar priority and handle it 757
expeditiously. 758

(I) (1) Upon receipt of an order for active military 759
service in the uniformed services, a parent who is subject to an 760
order allocating parental rights and responsibilities or in 761
relation to whom an action to allocate parental rights and 762
responsibilities is pending and who is ordered for active 763
military service shall notify the other parent who is subject to 764
the order or in relation to whom the case is pending of the 765
order for active military service within three days of receiving 766
the military service order. 767

(2) On receipt of the notice described in division (I) (1) 768
of this section, either parent may apply to the court for a 769
hearing to expedite an allocation or modification proceeding so 770
that the court can issue an order before the parent's active 771
military service begins. The application shall include the date 772
on which the active military service begins. 773

The court shall schedule a hearing upon receipt of the 774
application and hold the hearing not later than ~~thirty~~-fifteen 775
days after receipt of the application, except that the court 776
shall give the case calendar priority and handle the case 777
expeditiously if exigent circumstances exist in the case. 778

The court shall not modify a prior decree allocating 779

parental rights and responsibilities ~~unless the court determines~~ 780
~~that there has been a change in circumstances of the child, the~~ 781
~~child's residential parent, or either of the parents subject to~~ 782
~~a shared parenting~~ except as minimally required to deal with 783
this temporary situation in an equal legal and physical custody 784
decree, and that clear and convincing evidence shows that a 785
modification is necessary to serve the best interest of the 786
child during this temporary deployment. The court shall not find 787
past, present, or possible future active military service in the 788
uniformed services to constitute a change in circumstances 789
justifying modification of a prior decree pursuant to division 790
(E) of this section. The court shall make specific written 791
findings of fact to support any modification under this 792
division. 793

(3) Nothing in division (I) of this section shall prevent 794
a court from issuing a temporary order allocating or modifying 795
parental rights and responsibilities for the duration of the 796
parent's active military service. A temporary order shall 797
specify whether the parent's active military service is the 798
basis of the order and shall provide for termination of the 799
temporary order and resumption of the prior order within ~~ten~~ 800
seven days after receipt of notice pursuant to division (I) (5) 801
of this section, unless the other parent demonstrates that 802
resumption of the prior order is not in the child's best 803
interest by clear and convincing evidence. 804

(4) At the request of a parent who is ordered for active 805
military service in the uniformed services and who is a subject 806
of a proceeding pertaining to a temporary order for the 807
allocation or modification of parental rights and 808
responsibilities, the court shall permit the parent to 809
participate in the proceeding and present evidence by electronic 810

means, including communication by telephone, video, or internet 811
to the extent permitted by the rules of the supreme court of 812
Ohio and shall issue an order supporting such along with the 813
temporary order. 814

(5) A parent who is ordered for active military service in 815
the uniformed services and who is a subject of a proceeding 816
pertaining to the allocation or modification of parental rights 817
and responsibilities shall provide written notice to the court, 818
child support enforcement agency, and the other parent of the 819
date of termination of the parent's active military service not 820
later than ~~thirty~~ ten days after the date on which the service 821
ends. 822

(J) As used in this section: 823

(1) "Abused child" has the same meaning as in section 824
2151.031 of the Revised Code. 825

(2) "Active military service" means service by a member of 826
the uniformed services in compliance with military orders to 827
report for combat operations, contingency operations, 828
peacekeeping operations, a remote tour of duty, or other active 829
service for which the member is required to report unaccompanied 830
by any family member, including any period of illness, recovery 831
from injury, leave, or other lawful absence during that 832
operation, duty, or service. 833

(3) "Neglected child" has the same meaning as in section 834
2151.03 of the Revised Code. 835

(4) "Sexually oriented offense" has the same meaning as in 836
section 2950.01 of the Revised Code. 837

(5) "Uniformed services" means the United States armed 838
forces, the army national guard, and the air national guard or 839

any reserve component thereof, or the commissioned corps of the 840
United States public health service. 841

(K) As used in the Revised Code, "~~shared parenting~~equal 842
legal and physical custody" means that the parents share equally 843
in the legal and physical custody of the children, in the manner 844
set forth in the plan for ~~shared parenting~~equal legal and 845
physical custody that is approved by the court under division 846
(D) (1) and described in division ~~(L) (6)~~(L) (4) of this section,~~—~~ 847
~~all or some of the aspects of physical and legal care of their—~~ 848
~~children.~~ 849

(L) For purposes of the Revised Code: 850

(1) ~~A parent who is granted the care, custody, and control~~ 851
~~of a child under an order that was issued pursuant to this—~~ 852
~~section prior to April 11, 1991, and that does not provide for—~~ 853
~~shared parenting has "custody of the child" and "care, custody,—~~ 854
~~and control of the child" under the order, and is the—~~ 855
~~"residential parent," the "residential parent and legal—~~ 856
~~custodian," or the "custodial parent" of the child under the—~~ 857
~~order.~~ 858

~~(2)~~ A parent who primarily is allocated the parental 859
rights and responsibilities for the care of a child and who is 860
designated as the residential parent and legal custodian of the 861
child under an order that is issued pursuant to this section on 862
or after April 11, 1991, and that does not provide for ~~shared—~~ 863
~~parenting~~equal legal and physical custody has "custody of the 864
child" and "care, custody, and control of the child" under the 865
order, and is the "residential parent," the "residential parent 866
and legal custodian," or the "custodial parent" of the child 867
under the order. 868

~~(3) A parent who is not granted custody of a child under an order that was issued pursuant to this section prior to April 11, 1991, and that does not provide for shared parenting is the "parent who is not the residential parent," the "parent who is not the residential parent and legal custodian," or the "noncustodial parent" of the child under the order.~~ 869
870
871
872
873
874

~~(4)~~ (2) A parent who is not primarily allocated the parental rights and responsibilities for the care of a child and who is not designated as the residential parent and legal custodian of the child under an order that is issued pursuant to this section on or after April 11, 1991, and that does not provide for ~~shared parenting~~ equal legal and physical custody is the "parent who is not the residential parent," the "parent who is not the residential parent and legal custodian," or the "noncustodial parent" of the child under the order. 875
876
877
878
879
880
881
882
883

~~(5)~~ (3) Unless the context clearly requires otherwise, if an order is issued by a court pursuant to this section and the order provides for ~~shared parenting~~ equal legal and physical custody of a child, both parents have "equal custody of the child" or "equal care, custody, and control of the child" under the order, to the extent and in the manner specified in the order. 884
885
886
887
888
889
890

~~(6)~~ (4) Unless the context clearly requires otherwise and except as otherwise provided in the order, if an order is issued by a court pursuant to this section and the order provides for ~~shared parenting~~ equal legal and physical custody of a child, each parent, regardless of where the child is physically located or with whom the child is residing at a particular point in time, as specified in the order, is the "residential parent," the "residential parent and legal custodian," or the "custodial 891
892
893
894
895
896
897
898

parent" of the child. 899

~~(7)~~(5) Unless the context clearly requires otherwise and 900
except as otherwise provided in the order, a designation in the 901
order of a parent as the residential parent for the purpose of 902
determining the school the child attends, as the custodial 903
parent for purposes of claiming the child as a dependent 904
pursuant to section 152(e) of the "Internal Revenue Code of 905
1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, or as the 906
residential parent for purposes of receiving public assistance 907
pursuant to division ~~(A) (2)~~ (A) of this section, does not affect 908
the designation pursuant to division ~~(L) (6)~~ (L) (4) of this 909
section of each parent as the "residential parent," the 910
"residential parent and legal custodian," or the "custodial 911
parent" of the child. 912

(M) The court shall require each parent of a child to file 913
an affidavit attesting as to whether the parent, and the members 914
of the parent's household, have been convicted of or pleaded 915
guilty to any of the offenses identified in divisions (C) and 916
(F) (1) (h) of this section. 917

Sec. 3109.041. (A) Parties to any custody decree issued 918
pursuant to section 3109.04 of the Revised Code prior to ~~April~~ 919
~~11, 1991,~~ the effective date of this amendment may file a motion 920
with the court that issued the decree requesting the issuance of 921
~~a shared parenting~~ an equal legal and physical custody decree in 922
accordance with division (G) of section 3109.04 of the Revised 923
Code. Upon the filing of the motion, the court shall determine 924
whether to grant the parents ~~shared rights and responsibilities~~ 925
equal legal and physical custody for the care of the children in 926
accordance with ~~divisions (A), (D) (1), (E) (1), and (I) of~~ 927
section 3109.04 of the Revised Code. 928

(B) A custody decree issued pursuant to section 3109.04 of 929
the Revised Code prior to ~~April 11, 1991, the effective date of~~ 930
this amendment that granted joint care, custody, and control of 931
the children to the parents or granted shared parenting shall 932
not be affected or invalidated by, and shall not be construed as 933
being affected or invalidated by, the provisions of section 934
3109.04 of the Revised Code ~~relative relating~~ to the granting of 935
~~a shared parenting~~ an equal legal and physical custody decree or 936
a decree allocating parental rights and responsibilities for the 937
care of children on and after ~~April 11, 1991~~ the effective date 938
of this amendment. The decree issued prior to ~~April 11, 1991~~ the 939
effective date of this amendment shall remain in full force and 940
effect, subject to modification or termination as if it were an 941
equal legal and physical custody decree pursuant to division (E) 942
of section 3109.04 of the Revised Code as that section exists on 943
and after ~~April 11, 1991~~ the effective date of this amendment. 944

(C) As used in this section, "joint custody," ~~and~~ "joint 945
care, custody, and control," and "shared parenting" have the 946
same ~~meaning~~ meanings as ~~"shared parenting~~ equal legal and 947
physical custody." 948

(D) As used in the Revised Code, "equal legal and physical 949
custody decree" includes a shared parenting decree issued prior 950
to the effective date of this amendment that has not been 951
modified or terminated under division (E) (2) of section 3109.04 952
of the Revised Code, after the effective date of this amendment. 953

Sec. 3109.042. (A) An unmarried female who gives birth to 954
a child is the sole residential parent and legal custodian of 955
the child until a court of competent jurisdiction issues an 956
order designating ~~another person~~ the father of the child, if he 957
has established paternity, as the residential parent and an 958

equal legal and physical custodian. A court designating the 959
residential parent and legal custodian of a child described in 960
this section shall treat the mother and father as standing upon 961
an equality when making the designation and shall issue a 962
restraining order against the removal of the child from the 963
jurisdiction of the court and the destruction or removal of any 964
mutual property that may exist from their relationship. The 965
restraining order shall remain in effect pending final 966
determination in the case. 967

(B) Notwithstanding division (A) of this section, an 968
unmarried female who has been convicted of or pleaded guilty to 969
rape or sexual battery and has been declared under section 970
3109.501 of the Revised Code to be the parent of a child born as 971
a result of rape or sexual battery shall not be a residential 972
parent and legal custodian of that child. 973

Sec. 3109.043. In any proceeding pertaining to the 974
allocation of parental rights and responsibilities for the care 975
of a child, when requested in the complaint, answer, or 976
counterclaim, or by motion served with the pleading, ~~upon~~ 977
~~satisfactory proof by affidavit~~ duly filed with the clerk of the 978
court, the court, ~~without oral hearing and for good cause shown,~~ 979
~~may~~ shall make a temporary order regarding the allocation of 980
parental rights and responsibilities for the care of the child 981
while the action is pending and shall issue a restraining order 982
against the removal of the child from the jurisdiction of the 983
court pending final determination. When determining the 984
temporary allocation of parental rights and responsibilities, 985
there is a presumption that equal legal and physical custody of 986
the child is in the best interest of the child, that parenting 987
is a fundamental right, and that the court shall set parenting 988
time as equally as possible for both parents unless clear and 989

convincing evidence can be presented as to the unsuitability or 990
either parent or the parents have agreed to an alternate 991
schedule. 992

If a parent and child relationship has not already been 993
established pursuant to section 3111.02 of the Revised Code, the 994
court ~~may shall~~ take into consideration when determining ~~whether~~ 995
~~to award parenting time, visitation rights, or temporary custody~~ 996
~~to~~ for a putative father that whether the putative father is 997
named on the birth record of the child, the child has the 998
putative father's surname, or a clear pattern of a parent and 999
child relationship between the child and the putative father 1000
exists. The putative father shall stand as an equal to the 1001
mother in all custody determinations unless clear and convincing 1002
evidence can be presented as to the unsuitability of either 1003
parent. 1004

Sec. 3109.051. (A) If a divorce, dissolution, legal 1005
separation, or annulment proceeding involves a child and if the 1006
court has not issued ~~a shared parenting~~ an equal legal and 1007
physical custody decree, the court shall consider any mediation 1008
report filed pursuant to section 3109.052 of the Revised Code 1009
and, in accordance with division (C) of this section, shall make 1010
a just and reasonable order or decree permitting each parent who 1011
is not the residential parent to have parenting time with the 1012
child at the time and under the conditions that the court 1013
directs, unless the court determines that it would not be in the 1014
best interest of the child to permit that parent to have 1015
parenting time with the child and includes in the journal its 1016
findings of fact and conclusions of law. Whenever possible, the 1017
order or decree permitting the parenting time shall ensure the 1018
opportunity for both parents to have frequent and continuing 1019
contact with the child, unless frequent and continuing contact 1020

by either parent with the child is shown by clear and convincing 1021
evidence that it would not be in the best interest of the child. 1022
The court shall include in its final decree a specific schedule 1023
of parenting time for that parent. Except as provided in 1024
division (E) (6) of section 3113.31 of the Revised Code, if the 1025
court, pursuant to this section, grants parenting time to a 1026
parent or companionship or visitation rights to any other person 1027
with respect to any child, it shall not require the public 1028
children services agency to provide supervision of or other 1029
services related to that parent's exercise of parenting time or 1030
that person's exercise of companionship or visitation rights 1031
with respect to the child. This section does not limit the power 1032
of a juvenile court pursuant to Chapter 2151. of the Revised 1033
Code to issue orders with respect to children who are alleged to 1034
be abused, neglected, or dependent children or to make 1035
dispositions of children who are adjudicated abused, neglected, 1036
or dependent children or of a common pleas court to issue orders 1037
pursuant to section 3113.31 of the Revised Code. 1038

(B) (1) In a divorce, dissolution of marriage, legal 1039
separation, annulment, or child support proceeding that involves 1040
a child, the court may grant reasonable companionship or 1041
visitation rights to any grandparent, or any person related to 1042
the child by consanguinity or affinity, ~~or any other person~~ 1043
~~other than a parent~~, if all of the following apply: 1044

(a) The grandparent, ~~relative~~, or ~~other~~ person files a 1045
motion with the court seeking companionship or visitation 1046
rights. 1047

(b) The court determines that the grandparent, ~~relative~~, 1048
or ~~other~~ person has an interest in the welfare of the child. 1049

(c) The court determines by clear and convincing evidence 1050

that the granting of the companionship or visitation rights is 1051
in the best interest of the child. 1052

(2) A motion ~~may~~shall not be filed under division (B) (1) 1053
of this section during the pendency of the divorce, dissolution 1054
of marriage, legal separation, annulment, or child support 1055
proceeding or, if a motion was not filed at that time or was 1056
filed at that time and the circumstances in the case have 1057
changed, at any time after a decree or final order is issued in 1058
the case. An exception may be made if the grandparent or person 1059
related by consanguinity or affinity can show that there have 1060
been substantial changes for the child that the court has not 1061
been made aware of by either parent. 1062

(3) An order made pursuant to this section prior to the 1063
effective date of this amendment that granted companionship or 1064
visitation of the child to a grandparent or person related by 1065
consanguinity or affinity may be brought forth for further 1066
review upon written motion by any of the involved parties. 1067

(C) When determining whether to grant parenting time 1068
rights to a parent pursuant to this section or section 3109.12 1069
of the Revised Code or to grant companionship or visitation 1070
rights to a grandparent, ~~relative,~~ or ~~other~~ person related by 1071
consanguinity or affinity pursuant to this section or section 1072
3109.11 or 3109.12 of the Revised Code, when establishing a 1073
specific parenting time or visitation schedule, and when 1074
determining other parenting time matters under this section or 1075
section 3109.12 of the Revised Code or visitation matters under 1076
this section or section 3109.11 or 3109.12 of the Revised Code, 1077
the court shall consider any mediation report that is filed 1078
pursuant to section 3109.052 of the Revised Code and shall 1079
consider all other relevant factors, including, but not limited 1080

to, all of the factors listed in division (D) of this section. 1081
In considering the factors listed in division (D) of this 1082
section for purposes of determining whether to grant parenting 1083
time or visitation rights, establishing a specific parenting 1084
time or visitation schedule, determining other parenting time 1085
matters under this section or section 3109.12 of the Revised 1086
Code or visitation matters under this section or under section 1087
3109.11 or 3109.12 of the Revised Code, and resolving any issues 1088
related to the making of any determination with respect to 1089
parenting time or visitation rights or the establishment of any 1090
specific parenting time or visitation schedule, the court, in 1091
its discretion, may interview in chambers any or all involved 1092
children regarding their wishes and concerns. If the court 1093
interviews any child concerning the child's wishes and concerns 1094
regarding those parenting time or visitation matters, the 1095
interview shall be conducted in chambers, and no person other 1096
than the child, the child's attorney, the judge, any necessary 1097
court personnel, and, in the judge's discretion, the attorney of 1098
each parent shall be permitted to be present in the chambers 1099
during the interview. No person shall obtain or attempt to 1100
obtain from a child a written or recorded statement or affidavit 1101
setting forth the wishes and concerns of the child regarding 1102
those parenting time or visitation matters. A court, in 1103
considering the factors listed in division (D) of this section 1104
for purposes of determining whether to grant any parenting time 1105
or visitation rights, establishing a parenting time or 1106
visitation schedule, determining other parenting time matters 1107
under this section or section 3109.12 of the Revised Code or 1108
visitation matters under this section or under section 3109.11 1109
or 3109.12 of the Revised Code, or resolving any issues related 1110
to the making of any determination with respect to parenting 1111
time or visitation rights or the establishment of any specific 1112

parenting time or visitation schedule, shall not accept or 1113
consider a written or recorded statement or affidavit that 1114
purports to set forth the child's wishes or concerns regarding 1115
those parenting time or visitation matters. 1116

(D) In determining whether to grant parenting time to a 1117
parent pursuant to this section or section 3109.12 of the 1118
Revised Code or companionship or visitation rights to a 1119
grandparent, ~~relative, or other person~~ related by consanguinity 1120
or affinity pursuant to this section or section 3109.11 or 1121
3109.12 of the Revised Code, in establishing a specific 1122
parenting time or visitation schedule, and in determining other 1123
parenting time matters under this section or section 3109.12 of 1124
the Revised Code or visitation matters under this section or 1125
section 3109.11 or 3109.12 of the Revised Code, the court shall 1126
consider all of the following factors: 1127

(1) The prior interaction and interrelationships of the 1128
child with the child's parents, siblings, and other persons 1129
related by consanguinity or affinity, and with the person who 1130
requested companionship or visitation if that person is not a 1131
parent, sibling, or relative of the child; 1132

(2) The geographical location of the residence of each 1133
parent and the distance between those residences if it extends 1134
outside of a contiguous county area, and if the person is not a 1135
parent, the geographical location of that person's residence and 1136
the distance between that person's residence and the child's 1137
residence; 1138

(3) The child's and parents' available time, including, 1139
but not limited to, each parent's employment schedule, the 1140
child's school schedule, and the child's and the parents' 1141
holiday and vacation schedule; 1142

(4) The age of the child;	1143
(5) The child's adjustment to home, school, and community;	1144
(6) If the court has interviewed the child in chambers,	1145
pursuant to division (C) of this section, regarding the wishes	1146
and concerns of the child as to parenting time by the parent who	1147
is not the residential parent or companionship or visitation by	1148
the grandparent, relative, or other person <u>related by</u>	1149
<u>consanguinity or affinity</u> who requested companionship or	1150
visitation, as to a specific parenting time or visitation	1151
schedule, or as to other parenting time or visitation matters,	1152
the wishes and concerns of the child, as expressed to the court;	1153
(7) The health and safety of the child;	1154
(8) The amount of time that will be available for the	1155
child to spend with siblings;	1156
(9) The mental and physical health of all parties;	1157
(10) Each parent's willingness to reschedule missed	1158
parenting time and to facilitate the other parent's parenting	1159
time rights, and with respect to a person who requested	1160
companionship or visitation, the willingness of that person to	1161
reschedule missed visitation;	1162
(11) In relation to parenting time, whether either parent	1163
previously has been convicted of or pleaded guilty to any	1164
criminal offense involving any act that resulted in a child	1165
being an abused child or a neglected child; whether either	1166
parent, in a case in which a child has been adjudicated an	1167
abused child or a neglected child, previously has been	1168
determined to be the perpetrator of the abusive or neglectful	1169
act that is the basis of the adjudication; and whether there is	1170
reason to believe that either parent has acted in a manner	1171

resulting in a child being an abused child or a neglected child; 1172

(12) In relation to requested companionship or visitation 1173
by a person, other than a parent, and related by consanguinity 1174
or affinity, whether the person previously has been convicted of 1175
or pleaded guilty to any criminal offense involving any act that 1176
resulted in a child being an abused child or a neglected child; 1177
whether the person, in a case in which a child has been 1178
adjudicated an abused child or a neglected child, previously has 1179
been determined to be the perpetrator of the abusive or 1180
neglectful act that is the basis of the adjudication; whether 1181
either parent previously has been convicted of or pleaded guilty 1182
to a violation of section 2919.25 of the Revised Code involving 1183
a victim who at the time of the commission of the offense was a 1184
member of the family or household that is the subject of the 1185
current proceeding; whether either parent previously has been 1186
convicted of an offense involving a victim who at the time of 1187
the commission of the offense was a member of the family or 1188
household that is the subject of the current proceeding and 1189
caused physical harm to the victim in the commission of the 1190
offense; and whether there is reason to believe that the person 1191
has acted in a manner resulting in a child being an abused child 1192
or a neglected child; 1193

(13) Whether the residential parent or one of the parents 1194
subject to ~~a shared parenting~~ an equal legal and physical 1195
custody decree has continuously and willfully denied the other 1196
parent's right to parenting time in accordance with an order of 1197
the court; 1198

(14) Whether either parent has established a residence or 1199
is planning to establish a residence outside this state or the 1200
counties that are contiguous to the county in which the parent 1201

currently resides and the case has been filed; 1202

(15) In relation to requested companionship or visitation 1203
by a person other than a parent, the wishes and concerns of the 1204
child's parents, as expressed by them to the court; 1205

(16) Any other factor in the best interest of the child. 1206

(E) The remarriage of a residential parent of a child does 1207
not affect the authority of a court under this section to grant 1208
parenting time rights with respect to the child to the parent 1209
who is not the residential parent or to grant reasonable 1210
companionship or visitation rights with respect to the child to 1211
any grandparent, or any person related by consanguinity or 1212
affinity, ~~or any other person.~~ 1213

(F) (1) If the court, pursuant to division (A) of this 1214
section, denies parenting time to a parent who is not the 1215
residential parent or denies a motion for reasonable 1216
companionship or visitation rights filed under division (B) of 1217
this section and the parent or movant files a written request 1218
for findings of fact and conclusions of law, the court shall 1219
state in writing its findings of fact and conclusions of law in 1220
accordance with Civil Rule 52. 1221

(2) On or before July 1, 1991, each court of common pleas, 1222
by rule, shall adopt standard parenting time guidelines. A court 1223
shall have discretion to deviate from its standard parenting 1224
time guidelines based upon factors set forth in division (D) of 1225
this section. Modifications to these standards shall be set in 1226
accordance with state policy. 1227

(G) (1) If ~~the residential~~ either parent intends to move to 1228
a residence other than the residence specified in the parenting 1229
time order or decree of the court and the residence is outside 1230

of the counties that are contiguous to the county in which the 1231
parent currently resides, the parent shall file a notice of 1232
intent to relocate with the court that issued the order or 1233
decree not less than sixty days prior to the move. Except as 1234
provided in divisions (G) (2), (3), and (4) of this section, the 1235
court shall send a copy of the notice to the parent who is not 1236
the ~~residential~~ parent planning to move. Upon receipt of the 1237
notice, the court, on its own motion or the motion of the parent 1238
who is not the ~~residential~~ parent planning to move, ~~may~~ shall 1239
schedule a hearing with notice to both parents to determine 1240
whether it is in the best interest of the child to revise the 1241
parenting time schedule for the child and determine if clear and 1242
convincing evidence shows that the move is of benefit to and in 1243
the best interest of the child. 1244

(2) When a court grants parenting time rights to a parent 1245
who is not the residential parent, the court shall determine 1246
whether that parent has been convicted of or pleaded guilty to a 1247
violation of section 2919.25 of the Revised Code involving a 1248
victim who at the time of the commission of the offense was a 1249
member of the family or household that is the subject of the 1250
proceeding, has been convicted of or pleaded guilty to any other 1251
offense involving a victim who at the time of the commission of 1252
the offense was a member of the family or household that is the 1253
subject of the proceeding and caused physical harm to the victim 1254
in the commission of the offense, or has been determined to be 1255
the perpetrator of the abusive act that is the basis of an 1256
adjudication that a child is an abused child. If the court 1257
determines that that parent has not been so convicted and has 1258
not been determined to be the perpetrator of an abusive act that 1259
is the basis of a child abuse adjudication, the court shall 1260
issue an order stating that a copy of any notice of relocation 1261

that is filed with the court pursuant to division (G) (1) of this 1262
section will be sent to the parent who is given the parenting 1263
time rights in accordance with division (G) (1) of this section. 1264

If the court determines that the parent who is granted the 1265
parenting time rights has been convicted of or pleaded guilty to 1266
a violation of section 2919.25 of the Revised Code involving a 1267
victim who at the time of the commission of the offense was a 1268
member of the family or household that is the subject of the 1269
proceeding, has been convicted of or pleaded guilty to any other 1270
offense involving a victim who at the time of the commission of 1271
the offense was a member of the family or household that is the 1272
subject of the proceeding and caused physical harm to the victim 1273
in the commission of the offense, or has been determined to be 1274
the perpetrator of the abusive act that is the basis of an 1275
adjudication that a child is an abused child, it shall issue an 1276
order stating that that parent will not be given a copy of any 1277
notice of relocation that is filed with the court pursuant to 1278
division (G) (1) of this section unless the court determines that 1279
it is in the best interest of the children to give that parent a 1280
copy of the notice of relocation, issues an order stating that 1281
that parent will be given a copy of any notice of relocation 1282
filed pursuant to division (G) (1) of this section, and issues 1283
specific written findings of fact in support of its 1284
determination. 1285

(3) If a court, prior to April 11, 1991, issued an order 1286
granting parenting time rights to a parent who is not the 1287
residential parent and did not require the residential parent in 1288
that order to give the parent who is granted the parenting time 1289
rights notice of any change of address and if the residential 1290
parent files a notice of relocation pursuant to division (G) (1) 1291
of this section, the court shall determine if the parent who is 1292

granted the parenting time rights has been convicted of or 1293
pleaded guilty to a violation of section 2919.25 of the Revised 1294
Code involving a victim who at the time of the commission of the 1295
offense was a member of the family or household that is the 1296
subject of the proceeding, has been convicted of or pleaded 1297
guilty to any other offense involving a victim who at the time 1298
of the commission of the offense was a member of the family or 1299
household that is the subject of the proceeding and caused 1300
physical harm to the victim in the commission of the offense, or 1301
has been determined to be the perpetrator of the abusive act 1302
that is the basis of an adjudication that a child is an abused 1303
child. If the court determines that the parent who is granted 1304
the parenting time rights has not been so convicted and has not 1305
been determined to be the perpetrator of an abusive act that is 1306
the basis of a child abuse adjudication, the court shall issue 1307
an order stating that a copy of any notice of relocation that is 1308
filed with the court pursuant to division (G)(1) of this section 1309
will be sent to the parent who is granted parenting time rights 1310
in accordance with division (G)(1) of this section. 1311

If the court determines that the parent who is granted the 1312
parenting time rights has been convicted of or pleaded guilty to 1313
a violation of section 2919.25 of the Revised Code involving a 1314
victim who at the time of the commission of the offense was a 1315
member of the family or household that is the subject of the 1316
proceeding, has been convicted of or pleaded guilty to any other 1317
offense involving a victim who at the time of the commission of 1318
the offense was a member of the family or household that is the 1319
subject of the proceeding and caused physical harm to the victim 1320
in the commission of the offense, or has been determined to be 1321
the perpetrator of the abusive act that is the basis of an 1322
adjudication that a child is an abused child, it shall issue an 1323

order stating that that parent will not be given a copy of any
notice of relocation that is filed with the court pursuant to
division (G)(1) of this section unless the court determines that
it is in the best interest of the children to give that parent a
copy of the notice of relocation, issues an order stating that
that parent will be given a copy of any notice of relocation
filed pursuant to division (G)(1) of this section, and issues
specific written findings of fact in support of its
determination.

(4) If a parent who is granted parenting time rights
pursuant to this section or any other section of the Revised
Code is authorized by an order issued pursuant to this section
or any other court order to receive a copy of any notice of
relocation that is filed pursuant to division (G)(1) of this
section or pursuant to court order, if the residential parent
intends to move to a residence other than the residence address
specified in the parenting time order, and if the residential
parent does not want the parent who is granted the parenting
time rights to receive a copy of the relocation notice because
the parent with parenting time rights has been convicted of or
pleaded guilty to a violation of section 2919.25 of the Revised
Code involving a victim who at the time of the commission of the
offense was a member of the family or household that is the
subject of the proceeding, has been convicted of or pleaded
guilty to any other offense involving a victim who at the time
of the commission of the offense was a member of the family or
household that is the subject of the proceeding and caused
physical harm to the victim in the commission of the offense, or
has been determined to be the perpetrator of the abusive act
that is the basis of an adjudication that a child is an abused
child, the residential parent may file a motion with the court

requesting that the parent who is granted the parenting time 1355
rights not receive a copy of any notice of relocation. Upon the 1356
filing of the motion, the court shall schedule a hearing on the 1357
motion and give both parents notice of the date, time, and 1358
location of the hearing. If the court determines that the parent 1359
who is granted the parenting time rights has been so convicted 1360
or has been determined to be the perpetrator of an abusive act 1361
that is the basis of a child abuse adjudication, the court shall 1362
issue an order stating that the parent who is granted the 1363
parenting time rights will not be given a copy of any notice of 1364
relocation that is filed with the court pursuant to division (G) 1365
(1) of this section or that the residential parent is no longer 1366
required to give that parent a copy of any notice of relocation 1367
unless the court determines that it is in the best interest of 1368
the children to give that parent a copy of the notice of 1369
relocation, issues an order stating that that parent will be 1370
given a copy of any notice of relocation filed pursuant to 1371
division (G)(1) of this section, and issues specific written 1372
findings of fact in support of its determination. If it does not 1373
so find, it shall dismiss the motion. 1374

(H) (1) Subject to section 3125.16 and division (F) of 1375
section 3319.321 of the Revised Code, a parent of a child who is 1376
not the residential parent of the child is entitled to access, 1377
under the same terms and conditions under which access is 1378
provided to the residential parent, to any record that is 1379
related to the child and to which the residential parent of the 1380
child legally is provided access, unless the court determines 1381
that it would not be in the best interest of the child for the 1382
parent who is not the residential parent to have access to the 1383
records under those same terms and conditions. If the court 1384
determines that the parent of a child who is not the residential 1385

parent should not have access to records related to the child 1386
under the same terms and conditions as provided for the 1387
residential parent, the court shall specify the terms and 1388
conditions under which the parent who is not the residential 1389
parent is to have access to those records, shall enter its 1390
written findings of facts and opinion in the journal, and shall 1391
issue an order containing the terms and conditions to both the 1392
residential parent and the parent of the child who is not the 1393
residential parent. The court shall include in every order 1394
issued pursuant to this division notice that any keeper of a 1395
record who knowingly fails to comply with the order or division 1396
(H) of this section is in contempt of court. 1397

(2) Subject to section 3125.16 and division (F) of section 1398
3319.321 of the Revised Code, subsequent to the issuance of an 1399
order under division (H) (1) of this section, the keeper of any 1400
record that is related to a particular child and to which the 1401
residential parent legally is provided access shall permit the 1402
parent of the child who is not the residential parent to have 1403
access to the record under the same terms and conditions under 1404
which access is provided to the residential parent, unless the 1405
residential parent has presented the keeper of the record with a 1406
copy of an order issued under division (H) (1) of this section 1407
that limits the terms and conditions under which the parent who 1408
is not the residential parent is to have access to records 1409
pertaining to the child and the order pertains to the record in 1410
question. If the residential parent presents the keeper of the 1411
record with a copy of that type of order, the keeper of the 1412
record shall permit the parent who is not the residential parent 1413
to have access to the record only in accordance with the most 1414
recent order that has been issued pursuant to division (H) (1) of 1415
this section and presented to the keeper by the residential 1416

parent or the parent who is not the residential parent. Any 1417
keeper of any record who knowingly fails to comply with division 1418
(H) of this section or with any order issued pursuant to 1419
division (H) (1) of this section is in contempt of court. 1420

(3) The prosecuting attorney of any county may file a 1421
complaint with the court of common pleas of that county 1422
requesting the court to issue a protective order preventing the 1423
disclosure pursuant to division (H) (1) or (2) of this section of 1424
any confidential law enforcement investigatory record. The court 1425
shall schedule a hearing on the motion and give notice of the 1426
date, time, and location of the hearing to all parties. 1427

(I) A court that issues a parenting time order or decree 1428
pursuant to this section or section 3109.12 of the Revised Code 1429
shall determine whether the parent granted the right of 1430
parenting time is to be permitted access, in accordance with 1431
section 5104.039 of the Revised Code, to any child day-care 1432
center that is, or that in the future may be, attended by the 1433
children with whom the right of parenting time is granted. 1434
Unless the court determines that the parent who is not the 1435
residential parent should not have access to the center to the 1436
same extent that the residential parent is granted access to the 1437
center, the parent who is not the residential parent and who is 1438
granted parenting time rights is entitled to access to the 1439
center to the same extent that the residential parent is granted 1440
access to the center. If the court determines that the parent 1441
who is not the residential parent should not have access to the 1442
center to the same extent that the residential parent is granted 1443
such access under section 5104.039 of the Revised Code, the 1444
court shall specify the terms and conditions under which the 1445
parent who is not the residential parent is to have access to 1446
the center, provided that the access shall not be greater than 1447

the access that is provided to the residential parent under 1448
section 5104.039 of the Revised Code, the court shall enter its 1449
written findings of fact and opinions in the journal, and the 1450
court shall include the terms and conditions of access in the 1451
parenting time order or decree. 1452

(J) (1) Subject to division (F) of section 3319.321 of the 1453
Revised Code, when a court issues an order or decree allocating 1454
parental rights and responsibilities for the care of a child, 1455
the parent of the child who is not the residential parent of the 1456
child is entitled to access, under the same terms and conditions 1457
under which access is provided to the residential parent, to any 1458
student activity that is related to the child and to which the 1459
residential parent of the child legally is provided access, 1460
unless the court determines by clear and convincing evidence 1461
that it would not be in the best interest of the child to grant 1462
the parent who is not the residential parent access to the 1463
student activities under those same terms and conditions. If the 1464
court determines that the parent of the child who is not the 1465
residential parent should not have access to any student 1466
activity that is related to the child under the same terms and 1467
conditions as provided for the residential parent, the court 1468
shall specify the terms and conditions under which the parent 1469
who is not the residential parent is to have access to those 1470
student activities, shall enter its written findings of facts 1471
and opinion in the journal, and shall issue an order containing 1472
the terms and conditions to both the residential parent and the 1473
parent of the child who is not the residential parent. The court 1474
shall include in every order issued pursuant to this division 1475
notice that any school official or employee who knowingly fails 1476
to comply with the order or division (J) of this section is in 1477
contempt of court. 1478

(2) Subject to division (F) of section 3319.321 of the Revised Code, subsequent to the issuance of an order under division (J)(1) of this section, all school officials and employees shall permit the parent of the child who is not the residential parent to have access to any student activity under the same terms and conditions under which access is provided to the residential parent of the child, unless the residential parent has presented the school official or employee, the board of education of the school, or the governing body of the chartered nonpublic school with a copy of an order issued under division (J)(1) of this section that limits the terms and conditions under which the parent who is not the residential parent is to have access to student activities related to the child and the order pertains to the student activity in question. If the residential parent presents the school official or employee, the board of education of the school, or the governing body of the chartered nonpublic school with a copy of that type of order, the school official or employee shall permit the parent who is not the residential parent to have access to the student activity only in accordance with the most recent order that has been issued pursuant to division (J)(1) of this section and presented to the school official or employee, the board of education of the school, or the governing body of the chartered nonpublic school by the residential parent or the parent who is not the residential parent. Any school official or employee who knowingly fails to comply with division (J) of this section or with any order issued pursuant to division (J)(1) of this section is in contempt of court.

(K) If any person is found in contempt of court for failing to comply with or interfering with any order or decree granting parenting time rights issued pursuant to this section

or section 3109.12 of the Revised Code or companionship or 1510
visitation rights issued pursuant to this section, section 1511
3109.11 or 3109.12 of the Revised Code, or any other provision 1512
of the Revised Code, the court that makes the finding, in 1513
addition to any other penalty or remedy imposed, shall assess 1514
all court costs arising out of the contempt proceeding against 1515
the person and require the person to pay any reasonable 1516
attorney's fees of any adverse party, as determined by the 1517
court, that arose in relation to the act of contempt, and may 1518
award reasonable compensatory parenting time or visitation to 1519
the person whose right of parenting time or visitation was 1520
affected by the failure or interference if such compensatory 1521
parenting time or visitation is in the best interest of the 1522
child. Any compensatory parenting time or visitation awarded 1523
under this division shall be included in an order issued by the 1524
court and, to the extent possible, shall be governed by the same 1525
terms and conditions as was the parenting time or visitation 1526
that was affected by the failure or interference. 1527

(L) Any parent who requests reasonable parenting time 1528
rights with respect to a child under this section or section 1529
3109.12 of the Revised Code or any person who requests 1530
reasonable companionship or visitation rights with respect to a 1531
child under this section, section 3109.11 or 3109.12 of the 1532
Revised Code, or any other provision of the Revised Code may 1533
file a motion with the court requesting that it waive all or any 1534
part of the costs that may accrue in the proceedings. If the 1535
court determines that the movant is indigent and that the waiver 1536
is in the best interest of the child, the court, in its 1537
discretion, may waive payment of all or any part of the costs of 1538
those proceedings. 1539

(M) (1) A parent who receives an order for active military 1540

service in the uniformed services and who is subject to a 1541
parenting time order may apply to the court for any of the 1542
following temporary orders for the period extending from the 1543
date of the parent's departure to the date of return: 1544

(a) An order delegating all or part of the parent's 1545
parenting time with the child to a relative or to another person 1546
who has a close and substantial relationship with the child if 1547
the delegation is in the child's best interest; 1548

(b) An order that the other parent make the child 1549
reasonably available for parenting time with the parent when the 1550
parent is on leave from active military service; 1551

(c) An order that the other parent facilitate contact, 1552
including telephone and electronic contact, between the parent 1553
and child while the parent is on active military service. 1554

(2) (a) Upon receipt of an order for active military 1555
service, a parent who is subject to a parenting time order and 1556
seeks an order under division (M) (1) of this section shall 1557
notify the other parent who is subject to the parenting time 1558
order and apply to the court as soon as reasonably possible 1559
after receipt of the order for active military service. The 1560
application shall include the date on which the active military 1561
service begins. 1562

(b) The court shall schedule a hearing upon receipt of an 1563
application under division (M) of this section and hold the 1564
hearing not later than thirty days after its receipt, except 1565
that the court shall give the case calendar priority and handle 1566
the case expeditiously if exigent circumstances exist in the 1567
case. No hearing shall be required if both parents agree to the 1568
terms of the requested temporary order and the court determines 1569

that the order is in the child's best interest. 1570

(c) In determining whether a delegation under division (M) 1571
(1)(a) of this section is in the child's best interest, the 1572
court shall consider all relevant factors, including the factors 1573
set forth in division (D) of this section. 1574

(d) An order delegating all or part of the parent's 1575
parenting time pursuant to division (M) (1)(a) of this section 1576
does not create standing on behalf of the person to whom 1577
parenting time is delegated to assert visitation or 1578
companionship rights independent of the order. 1579

(3) At the request of a parent who is ordered for active 1580
military service in the uniformed services and who is a subject 1581
of a proceeding pertaining to a parenting time order or 1582
pertaining to a request for companionship rights or visitation 1583
with a child, the court shall permit the parent to participate 1584
in the proceeding and present evidence by electronic means, 1585
including communication by telephone, video, or internet to the 1586
extent permitted by rules of the supreme court of Ohio. 1587

(4) The court shall not consider past, present, or 1588
possible future active military service in the uniformed 1589
services as a change of circumstances justifying modification of 1590
a prior decree or order for parenting time. 1591

(N) The juvenile court has exclusive jurisdiction to enter 1592
the orders in any case certified to it from another court. 1593

(O) As used in this section: 1594

(1) "Abused child" has the same meaning as in section 1595
2151.031 of the Revised Code, and "neglected child" has the same 1596
meaning as in section 2151.03 of the Revised Code. 1597

(2) "Active military service" and "uniformed services"	1598
have the same meanings as in section 3109.04 of the Revised	1599
Code.	1600
(3) "Confidential law enforcement investigatory record"	1601
has the same meaning as in section 149.43 of the Revised Code.	1602
(4) "Parenting time order" means an order establishing the	1603
amount of time that a child spends with the parent who is not	1604
the residential parent or the amount of time that the child is	1605
to be physically located with a parent under a shared parenting	1606
<u>an equal legal and physical custody order.</u>	1607
(5) "Record" means any record, document, file, or other	1608
material that contains information directly related to a child,	1609
including, but not limited to, any of the following:	1610
(a) Records maintained by public and nonpublic schools;	1611
(b) Records maintained by facilities that provide child	1612
care, as defined in section 5104.01 of the Revised Code,	1613
publicly funded child care, as defined in section 5104.01 of the	1614
Revised Code, or pre-school services operated by or under the	1615
supervision of a school district board of education or a	1616
nonpublic school;	1617
(c) Records maintained by hospitals, other facilities, or	1618
persons providing medical or surgical care or treatment for the	1619
child;	1620
(d) Records maintained by agencies, departments,	1621
instrumentalities, or other entities of the state or any	1622
political subdivision of the state, other than a child support	1623
enforcement agency. Access to records maintained by a child	1624
support enforcement agency is governed by section 3125.16 of the	1625
Revised Code.	1626

Sec. 3109.09. (A) As used in this section, "parent" means 1627
one of the following: 1628

(1) Both parents unless division (A) (2) or (3) of this 1629
section applies; 1630

(2) The parent designated the residential parent and legal 1631
custodian pursuant to an order issued under section 3109.04 of 1632
the Revised Code that is not ~~a shared parenting~~ an equal legal 1633
and physical custody order; 1634

(3) The custodial parent of a child born out of wedlock 1635
with respect to whom no custody order has been issued. 1636

(B) Any owner of property, including any board of 1637
education of a city, local, exempted village, or joint 1638
vocational school district, may maintain a civil action to 1639
recover compensatory damages not exceeding ten thousand dollars 1640
and court costs from the parent of a minor if the minor 1641
willfully damages property belonging to the owner or commits 1642
acts cognizable as a "theft offense," as defined in section 1643
2913.01 of the Revised Code, involving the property of the 1644
owner. The action may be joined with an action under Chapter 1645
2737. of the Revised Code against the minor, or the minor and 1646
the minor's parent, to recover the property regardless of value, 1647
but any additional damages recovered from the parent pursuant to 1648
this section shall be limited to compensatory damages not 1649
exceeding ten thousand dollars, as authorized by this section. A 1650
finding of willful destruction of property or of committing acts 1651
cognizable as a theft offense is not dependent upon a prior 1652
finding that the child is a delinquent child or upon the child's 1653
conviction of any criminal offense. 1654

(C) (1) If a court renders a judgment in favor of a board 1655

of education of a city, local, exempted village, or joint 1656
vocational school district in an action brought pursuant to 1657
division (B) of this section, if the board of education agrees 1658
to the parent's performance of community service in lieu of full 1659
payment of the judgment, and if the parent who is responsible 1660
for the payment of the judgment agrees to voluntarily 1661
participate in the performance of community service in lieu of 1662
full payment of the judgment, the court may order the parent to 1663
perform community service in lieu of providing full payment of 1664
the judgment. 1665

(2) If a court, pursuant to division (C) (1) of this 1666
section, orders a parent to perform community service in lieu of 1667
providing full payment of a judgment, the court shall specify in 1668
its order the amount of the judgment, if any, to be paid by the 1669
parent, the type and number of hours of community service to be 1670
performed by the parent, and any other conditions necessary to 1671
carry out the order. 1672

(D) This section shall not apply to a parent of a minor if 1673
the minor was married at the time of the commission of the acts 1674
or violations that would otherwise give rise to a civil action 1675
commenced under this section. 1676

(E) Any action brought pursuant to this section shall be 1677
commenced and heard as in other civil actions. 1678

(F) The monetary limitation upon compensatory damages set 1679
forth in this section does not apply to a civil action brought 1680
pursuant to section 2307.70 of the Revised Code. 1681

Sec. 3109.12. (A) If a child is born to an unmarried 1682
woman, the parents of the woman and any relative of the woman 1683
may file a complaint requesting the court of common pleas of the 1684

county in which the child resides to grant them reasonable 1685
companionship or visitation rights with the child. If a child is 1686
born to an unmarried woman and if the father of the child has 1687
acknowledged the child and that acknowledgment has become final 1688
pursuant to section 2151.232, 3111.25, or 3111.821 of the 1689
Revised Code or has been determined in an action under Chapter 1690
3111. of the Revised Code to be the father of the child, the 1691
father may file a complaint requesting that the court of 1692
appropriate jurisdiction of the county in which the child 1693
resides grant him ~~reasonable parenting time rights with equal~~ 1694
legal and physical custody of the child and the parents of the 1695
father and any relative of the father may file a complaint 1696
requesting that the court grant them reasonable companionship or 1697
visitation rights with the child. 1698

(B) The court may grant ~~the parenting time rights equal~~ 1699
legal or physical custody or companionship or visitation rights 1700
requested under division (A) of this section, if it determines 1701
that the granting of ~~the parenting time rights equal legal or~~ 1702
physical custody or companionship or visitation rights is in the 1703
best interest of the child. In determining whether to grant 1704
~~reasonable parenting time rights equal legal or physical custody~~ 1705
or reasonable companionship or visitation rights with respect to 1706
any child, the court shall consider all relevant factors, 1707
~~including. With regard to equal legal or physical custody,~~ 1708
factors include, but are not limited to, the factors set forth 1709
in divisions (F) (1) and (2) of section 3109.04 of the Revised 1710
Code. With regard to companionship or visitation rights, factors 1711
include, but are not limited to, the factors set forth in 1712
division (D) of section 3109.051 of the Revised Code. Divisions 1713
(C), (K), and (L) of section 3109.051 of the Revised Code apply 1714
to the determination of ~~reasonable parenting time rights or~~ 1715

reasonable companionship or visitation rights under this section 1716
and to any order granting any such rights that is issued under 1717
this section. 1718

The marriage or remarriage of the mother or father of a 1719
child does not affect the authority of the court under this 1720
section to grant the natural father ~~reasonable parenting time-~~ 1721
~~rights equal legal or physical custody~~ or the parents or 1722
relatives of the natural father or the parents or relatives of 1723
the mother of the child reasonable companionship or visitation 1724
rights with respect to the child. 1725

If the court denies a request for ~~reasonable parenting-~~ 1726
~~time rights equal legal or physical custody~~ or reasonable 1727
companionship or visitation rights made pursuant to division (A) 1728
of this section and the complainant files a written request for 1729
findings of fact and conclusions of law, the court shall state 1730
in writing its findings of fact and conclusions of law in 1731
accordance with Civil Rule 52. 1732

Except as provided in division (E)(6) of section 3113.31 1733
of the Revised Code, if the court, pursuant to this section, 1734
grants ~~parenting time rights equal legal or physical custody~~ or 1735
companionship or visitation rights with respect to any child, it 1736
shall not require the public children services agency to provide 1737
supervision of or other services related to that parent's 1738
exercise of ~~parenting time rights equal legal or physical~~ 1739
~~custody~~ with the child or that person's exercise of 1740
companionship or visitation rights with the child. This section 1741
does not limit the power of a juvenile court pursuant to Chapter 1742
2151. of the Revised Code to issue orders with respect to 1743
children who are alleged to be abused, neglected, or dependent 1744
children or to make dispositions of children who are adjudicated 1745

abused, neglected, or dependent children or of a common pleas 1746
court to issue orders pursuant to section 3113.31 of the Revised 1747
Code. 1748

Sec. 3109.401. (A) The general assembly finds the 1749
following: 1750

(1) That the parent and child relationship is of 1751
fundamental importance to the welfare of a child, and that the 1752
relationship between a child and each parent should be fostered 1753
unless inconsistent with the child's best interests; 1754

(2) That parents have the responsibility to make decisions 1755
and perform other parenting functions necessary for the care and 1756
growth of their children; 1757

(3) That the courts, when allocating parenting functions 1758
and responsibilities with respect to the child in a divorce, 1759
dissolution of marriage, legal separation, annulment, or any 1760
other proceeding addressing the allocation of parental rights 1761
and responsibilities, must determine the child's best interests; 1762

(4) That the courts and parents ~~must~~ shall take into 1763
consideration the following general principles when allocating 1764
parental rights and responsibilities and developing appropriate 1765
terms for parenting plans that provide equal legal and physical 1766
custody and that all cases shall be viewed with the strictest 1767
scrutiny of the law: 1768

(a) Children are served by a parenting arrangement that 1769
best provides for a child's safety, emotional growth, health, 1770
stability, and physical care. 1771

(b) Exposure of the child to harmful parental conflict, if 1772
proven by clear and convincing evidence, should be minimized as 1773
much as possible. 1774

(c) Whenever appropriate, parents should be encouraged to 1775
meet their responsibilities to their children through agreements 1776
rather than by relying on judicial intervention. 1777

(d) When a parenting plan provides for mutual decision- 1778
making responsibility by the parents but they are unable to make 1779
decisions mutually, they should make a good faith effort to 1780
utilize the mediation process as required by the parenting plan. 1781

(e) In apportioning between the parents the daily physical 1782
living arrangements of the child and the child's location during 1783
legal and school holidays, vacations, and days of special 1784
importance, a court should not impose any type of standard 1785
schedule unless a standard schedule meets the needs of the child 1786
better than any proposed alternative parenting plan. 1787

(B) It is, therefore, the purpose of this chapter, when it 1788
is in the child's best interest, to foster ~~the~~ an equal legal 1789
and physical relationship between the child and each parent when 1790
a court allocates parental rights and responsibilities with 1791
respect to the child in a divorce, dissolution, legal 1792
separation, annulment, or any other proceeding addressing the 1793
allocation of parental rights and responsibilities. 1794

(C) There is hereby created the task force on family law 1795
and children consisting of twenty-four members. The Ohio state 1796
bar association shall appoint three members who shall be 1797
attorneys with extensive experience in the practice of family 1798
law. The Ohio association of domestic relations judges shall 1799
appoint three members who shall be domestic relations judges. 1800
The Ohio association of juvenile and family court judges shall 1801
appoint three members who shall be juvenile or family court 1802
judges. The chief justice of the supreme court shall appoint 1803
eight members, three of whom shall be persons who practice in 1804

the field of family law mediation, two of whom shall be persons 1805
who practice in the field of child psychology, one of whom shall 1806
be a person who represents parent and child advocacy 1807
organizations, one of whom shall be a person who provides 1808
parenting education services, and one of whom shall be a 1809
magistrate employed by a domestic relations or juvenile court. 1810
The speaker of the house of representatives shall appoint two 1811
members who shall be members of the house of representatives and 1812
who shall be from different political parties. The president of 1813
the senate shall appoint two members who shall be members of the 1814
senate and who shall be from different political parties. The 1815
governor shall appoint two members who shall represent child 1816
caring agencies. One member shall be the director of job and 1817
family services or the director's designee. The chief justice 1818
shall designate one member of the task force to chair the task 1819
force. 1820

The appointing authorities and persons shall make 1821
appointments to the task force on family law and children within 1822
thirty days after September 1, 1998. Sections 101.82 to 101.87 1823
of the Revised Code do not apply to the task force. 1824

(D) The task force on family law and children shall do all 1825
of the following: 1826

(1) Appoint and fix the compensation of any technical, 1827
professional, and clerical employees and perform any services 1828
that are necessary to carry out the powers and duties of the 1829
task force on family law and children. All employees of the task 1830
force shall serve at the pleasure of the task force. 1831

(2) By July 1, 2001, submit to the speaker and minority 1832
leader of the house of representatives and to the president and 1833
the minority leader of the senate a report of its findings and 1834

recommendations on how to create a more civilized and 1835
constructive process for the parenting of children whose parents 1836
do not reside together. The recommendations shall propose a 1837
system to do all of the following: 1838

(a) Put children first; 1839

(b) Provide families with choices before they make a 1840
decision to obtain or finalize a divorce, dissolution, legal 1841
separation, or annulment; 1842

(c) Redirect human services to intervention and 1843
prevention, rather than supporting the casualties of the current 1844
process; 1845

(d) Avoid needless conflict between the participants; 1846

(e) Encourage problem solving among the participants; 1847

(f) Force the participants to act responsibly; 1848

(g) Shield both the participants and their children from 1849
lasting emotional damage. 1850

(3) Gather information on and study the current state of 1851
family law in this state; 1852

(4) Collaborate and consult with entities engaged in 1853
family and children's issues including, but not limited to, the 1854
Ohio association of child caring agencies, the Ohio family court 1855
feasibility study, and the Ohio courts futures commission; 1856

(5) Utilize findings and outcomes from pilot projects 1857
conducted by the Ohio family court feasibility study to explore 1858
alternatives in creating a more civilized and constructive 1859
process for the parenting of children whose parents do not 1860
reside together with an emphasis on the areas of mediation and 1861

obtaining visitation compliance. 1862

(E) Courts of common pleas shall cooperate with the task 1863
force on family law and children in the performance of the task 1864
force's duties described in division (D) of this section. 1865

Sec. 3109.56. When a parent seeks to create a power of 1866
attorney pursuant to section 3109.52 of the Revised Code, all of 1867
the following apply: 1868

(A) The power of attorney shall be executed by both 1869
parents if any of the following apply: 1870

(1) The parents are married to each other and are living 1871
as husband and wife. 1872

(2) The child is the subject of ~~a shared parenting an~~ 1873
equal legal and physical decree or order issued pursuant to 1874
section 3109.04 of the Revised Code. 1875

(3) The child is the subject of ~~a~~ an equal legal and 1876
physical custody decree or order issued pursuant to section 1877
3109.04 of the Revised Code unless one of the following is the 1878
case: 1879

(a) The parent who is not the residential parent and legal 1880
custodian is prohibited from receiving a notice of relocation in 1881
accordance with section 3109.051 of the Revised Code. 1882

(b) The parental rights of the parent who is not the 1883
residential parent and legal custodian have been terminated by 1884
order of a juvenile court pursuant to Chapter 2151. of the 1885
Revised Code. 1886

(c) The parent who is not the residential parent and legal 1887
custodian cannot be located with reasonable efforts. 1888

(B) In all other cases, the power of attorney may be 1889
executed only by one of the following persons: 1890

(1) The parent who is the residential parent and legal 1891
custodian of the child, as determined by court order or as 1892
provided in section 3109.042 of the Revised Code; 1893

(2) The parent with whom the child is residing the 1894
majority of the school year in cases in which no court has 1895
issued an order designating a parent as the residential parent 1896
and legal custodian of the child or section 3109.042 of the 1897
Revised Code is not applicable. 1898

Sec. 3111.24. (A) On the filing of an acknowledgment, the 1899
office of child support shall examine the acknowledgment to 1900
determine whether it is completed correctly. The office shall 1901
make the examination no later than five days after the 1902
acknowledgment is filed. If the acknowledgment is completed 1903
correctly, the office shall comply with division (B) of this 1904
section. If the acknowledgment is not completed correctly, the 1905
office shall return it to the person or entity that filed it by 1906
certified mail or any other service acceptable under the Rules 1907
of Civil Procedure. The person or entity shall have ten days 1908
from the date the office sends the acknowledgment back to 1909
correct it and return it to the office by certified mail or any 1910
other service acceptable under the Rules of Civil Procedure. The 1911
office shall send, along with the acknowledgment, a notice 1912
stating what needs to be corrected and the amount of time the 1913
person or entity has to make the corrections and return the 1914
acknowledgment to the office. 1915

If the person or entity returns the acknowledgment in a 1916
timely manner, the office shall examine the acknowledgment again 1917
to determine whether it has been correctly completed. If the 1918

acknowledgment has been correctly completed, the office shall 1919
comply with division (B) of this section. If the acknowledgment 1920
has not been correctly completed the second time or if the 1921
acknowledgment is not returned to the office in a timely manner, 1922
the acknowledgment is invalid and the office shall return it to 1923
the person or entity and shall not enter it into the birth 1924
registry. If the office returns an acknowledgment the second 1925
time, it shall send a notice to the person or entity stating the 1926
errors in the acknowledgment and that the acknowledgment is 1927
invalid. 1928

(B) If the office determines an acknowledgment is 1929
correctly completed, the office shall enter the information on 1930
the acknowledgment into the birth registry pursuant to sections 1931
3111.64 and 3111.65 of the Revised Code. After entering the 1932
information in the registry, the office shall send the 1933
acknowledgment to the department of health for storage pursuant 1934
to section 3705.091 of the Revised Code. The office may request 1935
that the department of health send back to the office any 1936
acknowledgment that is being stored by the department of health 1937
pursuant to that section. 1938

Sec. 3111.26. After an acknowledgment of paternity becomes 1939
final and enforceable, the child is the child of the man who 1940
signed the acknowledgment of paternity, as though born to him in 1941
lawful wedlock. If the mother is unmarried, the man who signed 1942
the acknowledgment of paternity may file a complaint requesting 1943
the granting of reasonable parenting time with equal legal and 1944
physical custody of the child under section ~~3109.12~~ 3109.04 of 1945
the Revised Code and the parents of the man who signed the 1946
acknowledgment of paternity, any relative of the man who signed 1947
the acknowledgment of paternity, the parents of the mother, and 1948
any relative of the mother may file a complaint pursuant to that 1949

section requesting the granting of reasonable companionship or 1950
visitation rights with the child. Once the acknowledgment 1951
becomes final the man who signed the acknowledgment of paternity 1952
assumes the parental duty of support. 1953

Sec. 3111.49. The mother, alleged father, and guardian or 1954
legal custodian of a child may object to an administrative order 1955
determining the existence or nonexistence of a parent and child 1956
relationship by bringing, within ~~fourteen~~thirty days after the 1957
date the administrative officer issues the order, an action 1958
under sections 3111.01 to 3111.18 of the Revised Code in the 1959
juvenile court or other court with jurisdiction under section 1960
2101.022 or 2301.03 of the Revised Code in the county in which 1961
the child support enforcement agency that employs the 1962
administrative officer who issued the order is located. If the 1963
action is not brought within the ~~fourteen-day~~thirty-day period, 1964
the administrative order is final and enforceable by a court and 1965
may not be challenged in an action or proceeding under Chapter 1966
3111. of the Revised Code. 1967

Sec. 3119.01. (A) As used in the Revised Code, "child 1968
support enforcement agency" means a child support enforcement 1969
agency designated under former section 2301.35 of the Revised 1970
Code prior to October 1, 1997, or a private or government entity 1971
designated as a child support enforcement agency under section 1972
307.981 of the Revised Code. 1973

(B) As used in this chapter and Chapters 3121., 3123., and 1974
3125. of the Revised Code: 1975

(1) "Administrative child support order" means any order 1976
issued by a child support enforcement agency for the support of 1977
a child pursuant to section 3109.19 or 3111.81 of the Revised 1978
Code or former section 3111.211 of the Revised Code, section 1979

3111.21 of the Revised Code as that section existed prior to	1980
January 1, 1998, or section 3111.20 or 3111.22 of the Revised	1981
Code as those sections existed prior to March 22, 2001.	1982
(2) "Child support order" means either a court child	1983
support order or an administrative child support order.	1984
(3) "Obligee" means the person who is entitled to receive	1985
the support payments under a support order.	1986
(4) "Obligor" means the person who is required to pay	1987
support under a support order.	1988
(5) "Support order" means either an administrative child	1989
support order or a court support order.	1990
(C) As used in this chapter:	1991
(1) "Cash medical support" means an amount ordered to be	1992
paid in a child support order toward the ordinary medical	1993
expenses incurred during a calendar year.	1994
(2) "Child care cost" means annual out-of-pocket costs for	1995
the care and supervision of a child or children subject to the	1996
order that is related to work or employment training.	1997
(3) "Court child support order" means any order issued by	1998
a court for the support of a child pursuant to Chapter 3115. of	1999
the Revised Code, section 2151.23, 2151.231, 2151.232, 2151.33,	2000
2151.36, 2151.361, 2151.49, 3105.21, 3109.05, 3109.19, 3111.13,	2001
3113.04, 3113.07, 3113.31, 3119.65, or 3119.70 of the Revised	2002
Code, or division (B) of former section 3113.21 of the Revised	2003
Code.	2004
(4) "Court-ordered parenting time" means the amount of	2005
parenting time a parent is to have under a parenting time order	2006
or the amount of time the children are to be in the physical	2007

custody of a parent under ~~a shared parenting~~ an equal legal and physical custody order. 2008
2009

(5) "Court support order" means either a court child support order or an order for the support of a spouse or former spouse issued pursuant to Chapter 3115. of the Revised Code, section 3105.18, 3105.65, or 3113.31 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code. 2010
2011
2012
2013
2014

(6) "CPI-U" means the consumer price index for all urban consumers, published by the United States department of labor, bureau of labor statistics. 2015
2016
2017

(7) "Extraordinary medical expenses" means any uninsured medical expenses incurred for a child during a calendar year that exceed the total cash medical support amount owed by the parents during that year. 2018
2019
2020
2021

(8) "Federal poverty level" has the same meaning as in section 5121.30 of the Revised Code. 2022
2023

(9) "Income" means either of the following: 2024

(a) For a parent who is employed to full capacity, the gross income of the parent; 2025
2026

(b) For a parent who is unemployed or underemployed, the sum of the gross income of the parent and any potential income of the parent. 2027
2028
2029

(10) "Income share" means the percentage derived from a comparison of each parent's annual income after allowable deductions and credits as indicated on the worksheet to the total annual income of both parents. 2030
2031
2032
2033

(11) "Insurer" means any person authorized under Title XXXIX of the Revised Code to engage in the business of insurance 2034
2035

in this state, any health insuring corporation, and any legal 2036
entity that is self-insured and provides benefits to its 2037
employees or members. 2038

(12) "Gross income" means, except as excluded in division 2039
(C) (12) of this section, the total of all earned and unearned 2040
income from all sources during a calendar year, whether or not 2041
the income is taxable, and includes income from salaries, wages, 2042
overtime pay, and bonuses to the extent described in division 2043
(D) of section 3119.05 of the Revised Code; commissions; 2044
royalties; tips; rents; dividends; severance pay; pensions; 2045
interest; trust income; annuities; social security benefits, 2046
including retirement, disability, and survivor benefits that are 2047
not means-tested; workers' compensation benefits; unemployment 2048
insurance benefits; disability insurance benefits; benefits that 2049
are not means-tested and that are received by and in the 2050
possession of the veteran who is the beneficiary for any 2051
service-connected disability under a program or law administered 2052
by the United States department of veterans' affairs or 2053
veterans' administration; spousal support actually received; and 2054
all other sources of income. "Gross income" includes income of 2055
members of any branch of the United States armed services or 2056
national guard, including, amounts representing base pay, basic 2057
allowance for quarters, basic allowance for subsistence, 2058
supplemental subsistence allowance, cost of living adjustment, 2059
specialty pay, variable housing allowance, and pay for training 2060
or other types of required drills; self-generated income; and 2061
potential cash flow from any source. 2062

"Gross income" does not include any of the following: 2063

(a) Benefits received from means-tested government 2064
administered programs, including Ohio works first; prevention, 2065

retention, and contingency; means-tested veterans' benefits; 2066
supplemental security income; supplemental nutrition assistance 2067
program; disability financial assistance; or other assistance 2068
for which eligibility is determined on the basis of income or 2069
assets; 2070

(b) Benefits for any service-connected disability under a 2071
program or law administered by the United States department of 2072
veterans' affairs or veterans' administration that are not 2073
means-tested, that have not been distributed to the veteran who 2074
is the beneficiary of the benefits, and that are in the 2075
possession of the United States department of veterans' affairs 2076
or veterans' administration; 2077

(c) Child support amounts received for children who are 2078
not included in the current calculation; 2079

(d) Amounts paid for mandatory deductions from wages such 2080
as union dues but not taxes, social security, or retirement in 2081
lieu of social security; 2082

(e) Nonrecurring or unsustainable income or cash flow 2083
items; 2084

(f) Adoption assistance and foster care maintenance 2085
payments made pursuant to Title IV-E of the "Social Security 2086
Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as amended. 2087

(13) "Nonrecurring or unsustainable income or cash flow 2088
item" means an income or cash flow item the parent receives in 2089
any year or for any number of years not to exceed three years 2090
that the parent does not expect to continue to receive on a 2091
regular basis. "Nonrecurring or unsustainable income or cash 2092
flow item" does not include a lottery prize award that is not 2093
paid in a lump sum or any other item of income or cash flow that 2094

the parent receives or expects to receive for each year for a 2095
period of more than three years or that the parent receives and 2096
invests or otherwise uses to produce income or cash flow for a 2097
period of more than three years. 2098

(14) "Ordinary medical expenses" includes copayments and 2099
deductibles, and uninsured medical-related costs for the 2100
children of the order. 2101

(15) (a) "Ordinary and necessary expenses incurred in 2102
generating gross receipts" means actual cash items expended by 2103
the parent or the parent's business and includes depreciation 2104
expenses of business equipment as shown on the books of a 2105
business entity. 2106

(b) Except as specifically included in "ordinary and 2107
necessary expenses incurred in generating gross receipts" by 2108
division (C) (15) (a) of this section, "ordinary and necessary 2109
expenses incurred in generating gross receipts" does not include 2110
depreciation expenses and other noncash items that are allowed 2111
as deductions on any federal tax return of the parent or the 2112
parent's business. 2113

(16) "Personal earnings" means compensation paid or 2114
payable for personal services, however denominated, and includes 2115
wages, salary, commissions, bonuses, draws against commissions, 2116
profit sharing, vacation pay, or any other compensation. 2117

(17) "Potential income" means both of the following for a 2118
parent who the court pursuant to a court support order, or a 2119
child support enforcement agency pursuant to an administrative 2120
child support order, determines is voluntarily unemployed or 2121
voluntarily underemployed: 2122

(a) Imputed income that the court or agency determines the 2123

parent would have earned if fully employed as determined from	2124
the following criteria:	2125
(i) The parent's prior employment experience;	2126
(ii) The parent's education;	2127
(iii) The parent's physical and mental disabilities, if	2128
any;	2129
(iv) The availability of employment in the geographic area	2130
in which the parent resides;	2131
(v) The prevailing wage and salary levels in the	2132
geographic area in which the parent resides;	2133
(vi) The parent's special skills and training;	2134
(vii) Whether there is evidence that the parent has the	2135
ability to earn the imputed income;	2136
(viii) The age and special needs of the child for whom	2137
child support is being calculated under this section;	2138
(ix) The parent's increased earning capacity because of	2139
experience;	2140
(x) The parent's decreased earning capacity because of a	2141
felony conviction;	2142
(xi) Any other relevant factor.	2143
(b) Imputed income from any nonincome-producing assets of	2144
a parent, as determined from the local passbook savings rate or	2145
another appropriate rate as determined by the court or agency,	2146
not to exceed the rate of interest specified in division (A) of	2147
section 1343.03 of the Revised Code, if the income is	2148
significant.	2149

(18) "Schedule" means the basic child support schedule	2150
created pursuant to section 3119.021 of the Revised Code.	2151
(19) "Self-generated income" means gross receipts received	2152
by a parent from self-employment, proprietorship of a business,	2153
joint ownership of a partnership or closely held corporation,	2154
and rents minus ordinary and necessary expenses incurred by the	2155
parent in generating the gross receipts. "Self-generated income"	2156
includes expense reimbursements or in-kind payments received by	2157
a parent from self-employment, the operation of a business, or	2158
rents, including company cars, free housing, reimbursed meals,	2159
and other benefits, if the reimbursements are significant and	2160
reduce personal living expenses.	2161
(20) "Self-sufficiency reserve" means the minimal amount	2162
necessary for an obligor to adequately subsist upon, as	2163
determined under section 3119.021 of the Revised Code.	2164
(21) "Split parental rights and responsibilities" means a	2165
situation in which there is more than one child who is the	2166
subject of an allocation of parental rights and responsibilities	2167
and each parent is the residential parent and legal custodian of	2168
at least one of those children.	2169
(22) "Worksheet" means the applicable worksheet created in	2170
rules adopted under section 3119.022 of the Revised Code that is	2171
used to calculate a parent's child support obligation.	2172
Sec. 3119.051. (A) —Except as otherwise provided in this	2173
section, a court or child support enforcement agency calculating	2174
the amount to be paid under a child support order shall reduce	2175
by ten per cent the amount of the annual individual support	2176
obligation for the parent or parents when a court has issued or	2177
is issuing a court-ordered parenting time order that equals or	2178

exceeds ninety overnights per year. This reduction may be in 2179
addition to the other deviations and reductions. 2180

~~(B) At the request of the obligee, a court may eliminate a 2181
previously granted adjustment established under division (A) of 2182
this section if the obligor, without just cause, has failed to 2183
exercise court-ordered parenting time. 2184~~

Sec. 3119.22. The court ~~may~~ shall order an amount of child 2185
support that deviates from the amount of child support that 2186
would otherwise result from the use of the basic child support 2187
schedule and the applicable worksheet if, after considering the 2188
factors and criteria set forth in section 3119.23 of the Revised 2189
Code, the court determines that the amount calculated pursuant 2190
to the basic child support schedule and the applicable worksheet 2191
would be unjust or inappropriate and therefore not be in the 2192
best interest of the child. 2193

If it deviates, the court ~~must~~ shall enter in the journal 2194
the amount of child support calculated pursuant to the basic 2195
child support schedule and the applicable worksheet, its 2196
determination that the amount would be unjust or inappropriate 2197
and therefore not in the best interest of the child, and 2198
findings of fact supporting that determination. 2199

Sec. 3119.23. The court ~~may~~ shall consider any of the 2200
following factors in determining whether to grant a deviation 2201
pursuant to section 3119.22 of the Revised Code: 2202

(A) Special and unusual needs of the child or children, 2203
including needs arising from the physical or psychological 2204
condition of the child or children; 2205

(B) Other court-ordered payments; 2206

(C) Extended parenting time or extraordinary costs 2207

associated with parenting time, including extraordinary travel	2208
expenses when exchanging the child or children for parenting	2209
time;	2210
(D) The financial resources and the earning ability of the	2211
child or children;	2212
(E) The relative financial resources, including the	2213
disparity in income between parties or households, other assets,	2214
and the needs of each parent;	2215
(F) The obligee's income, if the obligee's annual income	2216
is equal to or less than one hundred <u>fifty</u> per cent of the	2217
federal poverty level;	2218
(G) Benefits that either parent receives from remarriage	2219
or sharing living expenses with another person;	2220
(H) The amount of federal, state, and local taxes actually	2221
paid or estimated to be paid by a parent or both of the parents;	2222
(I) Significant in-kind contributions from a parent,	2223
including, but not limited to, direct payment for lessons,	2224
sports equipment, schooling, or clothing;	2225
(J) Extraordinary work-related expenses incurred by either	2226
parent;	2227
(K) The standard of living and circumstances of each	2228
parent and the standard of living the child would have enjoyed	2229
had the marriage continued or had the parents been married;	2230
(L) The educational opportunities that would have been	2231
available to the child had the circumstances requiring a child	2232
support order not arisen;	2233
(M) The responsibility of each parent for the support of	2234

others, including support of a child or children with	2235
disabilities who are not subject to the support order;	2236
(N) Post-secondary educational expenses paid for by a	2237
parent for the parent's own child or children, regardless of	2238
whether the child or children are emancipated;	2239
(O) Costs incurred or reasonably anticipated to be	2240
incurred by the parents in compliance with court-ordered	2241
reunification efforts in child abuse, neglect, or dependency	2242
cases;	2243
(P) Extraordinary child care costs required for the child	2244
or children that exceed the maximum state-wide average cost	2245
estimate as described in division (P) (1) (d) of section 3119.05	2246
of the Revised Code, including extraordinary costs associated	2247
with caring for a child or children with specialized physical,	2248
psychological, or educational needs;	2249
(Q) Any other relevant factor.	2250
If the court grants a deviation based on division (Q) of	2251
this section, it shall specifically state in the order the facts	2252
that are the basis for the deviation.	2253
Sec. 3119.24. (A) (1) A court that issues a shared-	2254
parenting an equal legal and physical custody order in	2255
accordance with section 3109.04 of the Revised Code shall order	2256
an amount of child support to be paid under the child support	2257
order that is calculated in accordance with the schedule and	2258
with the worksheet, except that, if that amount would be unjust	2259
or inappropriate to the children or either parent and therefore	2260
not in the best interest of the child because of the	2261
extraordinary circumstances of the parents or because of any	2262
other factors or criteria set forth in section 3119.23 of the	2263

Revised Code, the court may deviate from that amount. 2264

(2) The court shall consider extraordinary circumstances 2265
and other factors or criteria if it deviates from the amount 2266
described in division (A)(1) of this section and shall deviate 2267
appropriately from that amount to account for the amount of time 2268
that each parent spends with the child. The court shall enter in 2269
the journal the amount described in division (A)(1) of this 2270
section its determination that the amount would be unjust or 2271
inappropriate and therefore not in the best interest of the 2272
child, and findings of fact supporting its determination. 2273

(B) For the purposes of this section, "extraordinary 2274
circumstances of the parents" includes all of the following: 2275

(1) The ability of each parent to maintain adequate 2276
housing for the children; 2277

(2) Each parent's expenses, including child care expenses, 2278
school tuition, medical expenses, dental expenses, and any other 2279
expenses the court considers relevant; 2280

(3) Any other circumstances the court considers relevant. 2281

Sec. 3119.63. The child support enforcement agency shall 2282
review a court child support order on the date established 2283
pursuant to section 3119.60 of the Revised Code for formally 2284
beginning the review of the order and shall do all of the 2285
following: 2286

(A) Calculate a revised child support computation 2287
worksheet and issue a child support recommendation under the 2288
court child support order, including adding or adjusting a 2289
payment on arrearages in accordance with section 3123.21 of the 2290
Revised Code; 2291

(B) If the court child support order under review contains 2292
a deviation granted under sections 3119.06, 3119.22, 3119.23, 2293
~~3119.231,~~ and 3119.24 of the Revised Code, apply the deviation 2294
from the existing order to the revised amount of child support, 2295
provided that the agency can determine the monetary or 2296
percentage value of the deviation with respect to the court 2297
child support order. If the agency cannot determine the monetary 2298
or percentage value of the deviation, the agency shall not apply 2299
the deviation to the revised amount of child support. 2300

(C) Give the obligor and obligee notice, by ordinary mail, 2301
of the revised amount of child support, of their right to 2302
request an administrative hearing on the revised amount, of the 2303
procedures and time deadlines for requesting the hearing, and 2304
that the revised amount of child support will be submitted to 2305
the court for inclusion in a revised court child support order 2306
unless the obligor or obligee requests an administrative hearing 2307
on the proposed change within fourteen days after the notice 2308
under this division is issued; 2309

(D) Give the obligor and obligee notice, by ordinary mail, 2310
that if the court child support order contains a deviation 2311
granted under section 3119.06, 3119.22, 3119.23, or 3119.24 of 2312
the Revised Code, a parenting time adjustment granted under 2313
section 3119.051 of the Revised Code, or if the obligor or 2314
obligee intends to request a deviation from the child support 2315
amount to be paid under the court child support order, the 2316
obligor and obligee have a right to request a court hearing on 2317
the revised amount of child support without first requesting an 2318
administrative hearing and that the obligor or obligee, in order 2319
to exercise this right, must make the request for a court 2320
hearing no later than fourteen days after the notice is issued; 2321

(E) If neither the obligor nor the obligee timely requests, pursuant to division (C) or (D) of this section, an administrative or court hearing on the revised amount of child support, submit the revised amount of child support to the court for inclusion in a revised court child support order;

(F) If the obligor or the obligee timely requests an administrative hearing on the revised child support amount, schedule a hearing on the issue, give the obligor and obligee notice of the date, time, and location of the hearing, conduct the hearing in accordance with the rules adopted under section 3119.76 of the Revised Code, and determine at the hearing revised support obligations under the court child support order, including adding or adjusting a payment on arrearages in accordance with section 3123.21 of the Revised Code.

(G) If an agency determines revised support obligations under division (F) of this section, give notice to the obligor and obligee of the revised amount of child support, that they may request a court hearing on the revised amount within fourteen days after notice of the revised amount is issued, and that the agency will submit the revised amount of child support to the court for inclusion in a revised court child support order, if neither the obligor nor the obligee requests a court hearing on the revised amount of child support;

(H) If neither the obligor nor the obligee requests, pursuant to division (G) of this section, a court hearing on the revised amount of child support, submit the revised amount of child support to the court for inclusion in a revised court child support order.

Sec. 3310.51. As used in sections 3310.51 to 3310.64 of the Revised Code:

(A) "Alternative public provider" means either of the 2352
following providers that agrees to enroll a child in the 2353
provider's special education program to implement the child's 2354
individualized education program and to which the eligible 2355
applicant owes fees for the services provided to the child: 2356

(1) A school district that is not the school district in 2357
which the child is entitled to attend school or the child's 2358
school district of residence, if different; 2359

(2) A public entity other than a school district. 2360

(B) "Child with a disability" and "individualized 2361
education program" have the same meanings as in section 3323.01 2362
of the Revised Code. 2363

(C) "Eligible applicant" means any of the following: 2364

(1) Either of the natural or adoptive parents of a 2365
qualified special education child, except as otherwise specified 2366
in this division. When the marriage of the natural or adoptive 2367
parents of the student has been terminated by a divorce, 2368
dissolution of marriage, or annulment, or when the natural or 2369
adoptive parents of the student are living separate and apart 2370
under a legal separation decree, and a court has issued an order 2371
allocating the parental rights and responsibilities with respect 2372
to the child, "eligible applicant" means the residential parent 2373
as designated by the court. If the court issues a ~~shared~~ 2374
~~parenting~~ an equal legal and physical custody decree, "eligible 2375
applicant" means either parent. "Eligible applicant" does not 2376
mean a parent whose custodial rights have been terminated. 2377

(2) The custodian of a qualified special education child, 2378
when a court has granted temporary, legal, or permanent custody 2379
of the child to an individual other than either of the natural 2380

or adoptive parents of the child or to a government agency;	2381
(3) The guardian of a qualified special education child,	2382
when a court has appointed a guardian for the child;	2383
(4) The grandparent of a qualified special education	2384
child, when the grandparent is the child's attorney in fact	2385
under a power of attorney executed under sections 3109.51 to	2386
3109.62 of the Revised Code or when the grandparent has executed	2387
a caregiver <u>caretaker</u> authorization affidavit under sections	2388
3109.65 to 3109.73 of the Revised Code;	2389
(5) The surrogate parent appointed for a qualified special	2390
education child pursuant to division (B) of section 3323.05 and	2391
section 3323.051 of the Revised Code;	2392
(6) A qualified special education child, if the child does	2393
not have a custodian or guardian and the child is at least	2394
eighteen years of age.	2395
(D) "Entitled to attend school" means entitled to attend	2396
school in a school district under sections 3313.64 and 3313.65	2397
of the Revised Code.	2398
(E) "Formula ADM" and "formula amount" have the same	2399
meanings as in section 3317.02 of the Revised Code.	2400
(F) "Qualified special education child" is a child for	2401
whom all of the following conditions apply:	2402
(1) The child is at least five years of age and less than	2403
twenty-two years of age.	2404
(2) The school district in which the child is entitled to	2405
attend school, or the child's school district of residence if	2406
different, has identified the child as a child with a	2407
disability.	2408

(3) The school district in which the child is entitled to attend school, or the child's school district of residence if different, has developed an individualized education program under Chapter 3323. of the Revised Code for the child.

(4) The child either:

(a) Was enrolled in the schools of the school district in which the child is entitled to attend school in any grade from kindergarten through twelve in the school year prior to the school year in which a scholarship is first sought for the child;

(b) Is eligible to enter school in any grade kindergarten through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship is first sought for the child.

(5) The department of education has not approved a scholarship for the child under the educational choice scholarship pilot program, under sections 3310.01 to 3310.17 of the Revised Code, the autism scholarship program, under section 3310.41 of the Revised Code, or the pilot project scholarship program, under sections 3313.974 to 3313.979 of the Revised Code for the same school year in which a scholarship under the Jon Peterson special needs scholarship program is sought.

(6) The child and the child's parents are in compliance with the state compulsory attendance law under Chapter 3321. of the Revised Code.

(G) "Registered private provider" means a nonpublic school or other nonpublic entity that has been registered by the superintendent of public instruction under section 3310.58 of the Revised Code.

(H) "Scholarship" means a scholarship awarded under the 2438
Jon Peterson special needs scholarship program pursuant to 2439
sections 3310.51 to 3310.64 of the Revised Code. 2440

(I) "School district of residence" has the same meaning as 2441
in section 3323.01 of the Revised Code. A community school 2442
established under Chapter 3314. of the Revised Code is not a 2443
"school district of residence" for purposes of sections 3310.51 2444
to 3310.64 of the Revised Code. 2445

(J) "School year" has the same meaning as in section 2446
3313.62 of the Revised Code. 2447

(K) "Special education program" means a school or facility 2448
that provides special education and related services to children 2449
with disabilities. 2450

Sec. 3313.98. Notwithstanding division (D) of section 2451
3311.19 and division (D) of section 3311.52 of the Revised Code, 2452
the provisions of this section and sections 3313.981 to 3313.983 2453
of the Revised Code that apply to a city school district do not 2454
apply to a joint vocational or cooperative education school 2455
district unless expressly specified. 2456

(A) As used in this section and sections 3313.981 to 2457
3313.983 of the Revised Code: 2458

(1) "Parent" means either of the natural or adoptive 2459
parents of a student, except under the following conditions: 2460

(a) When the marriage of the natural or adoptive parents 2461
of the student has been terminated by a divorce, dissolution of 2462
marriage, or annulment or the natural or adoptive parents of the 2463
student are living separate and apart under a legal separation 2464
decree and the court has issued an order allocating the parental 2465
rights and responsibilities with respect to the student, 2466

"parent" means the residential parent for school purposes as 2467
designated by the court except that "parent" means either parent 2468
when the court issues ~~a shared parenting~~ an equal legal and 2469
physical custody decree. 2470

(b) When a court has granted temporary or permanent 2471
custody of the student to an individual or agency other than 2472
either of the natural or adoptive parents of the student, 2473
"parent" means the legal custodian of the child. 2474

(c) When a court has appointed a guardian for the student, 2475
"parent" means the guardian of the student. 2476

(2) "Native student" means a student entitled under 2477
section 3313.64 or 3313.65 of the Revised Code to attend school 2478
in a district adopting a resolution under this section. 2479

(3) "Adjacent district" means a city, exempted village, or 2480
local school district having territory that abuts the territory 2481
of a district adopting a resolution under this section. 2482

(4) "Adjacent district student" means a student entitled 2483
under section 3313.64 or 3313.65 of the Revised Code to attend 2484
school in an adjacent district. 2485

(5) "Adjacent district joint vocational student" means an 2486
adjacent district student who enrolls in a city, exempted 2487
village, or local school district pursuant to this section and 2488
who also enrolls in a joint vocational school district that does 2489
not contain the territory of the district for which that student 2490
is a native student and does contain the territory of the city, 2491
exempted village, or local district in which the student 2492
enrolls. 2493

(6) "Formula amount" has the same meaning as in section 2494
3317.02 of the Revised Code. 2495

(7) "Poverty line" means the poverty line established by 2496
the director of the United States office of management and 2497
budget as revised by the secretary of health and human services 2498
in accordance with section 673(2) of the "Community Services 2499
Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902, as amended. 2500

(8) "IEP" has the same meaning as in section 3323.01 of 2501
the Revised Code. 2502

(9) "Other district" means a city, exempted village, or 2503
local school district having territory outside of the territory 2504
of a district adopting a resolution under this section. 2505

(10) "Other district student" means a student entitled 2506
under section 3313.64 or 3313.65 of the Revised Code to attend 2507
school in an other district. 2508

(11) "Other district joint vocational student" means a 2509
student who is enrolled in any city, exempted village, or local 2510
school district and who also enrolls in a joint vocational 2511
school district that does not contain the territory of the 2512
district for which that student is a native student in 2513
accordance with a policy adopted under section 3313.983 of the 2514
Revised Code. 2515

(B) (1) The board of education of each city, local, and 2516
exempted village school district shall adopt a resolution 2517
establishing for the school district one of the following 2518
policies: 2519

(a) A policy that entirely prohibits the enrollment of 2520
students from adjacent districts or other districts, other than 2521
students for whom tuition is paid in accordance with section 2522
3317.08 of the Revised Code; 2523

(b) A policy that permits enrollment of students from all 2524

adjacent districts in accordance with policy statements	2525
contained in the resolution;	2526
(c) A policy that permits enrollment of students from all	2527
other districts in accordance with policy statements contained	2528
in the resolution.	2529
(2) A policy permitting enrollment of students from	2530
adjacent or from other districts, as applicable, shall provide	2531
for all of the following:	2532
(a) Application procedures, including deadlines for	2533
application and for notification of students and the	2534
superintendent of the applicable district whenever an adjacent	2535
or other district student's application is approved.	2536
(b) Procedures for admitting adjacent or other district	2537
applicants free of any tuition obligation to the district's	2538
schools, including, but not limited to:	2539
(i) The establishment of district capacity limits by grade	2540
level, school building, and education program;	2541
(ii) A requirement that all native students wishing to be	2542
enrolled in the district will be enrolled and that any adjacent	2543
or other district students previously enrolled in the district	2544
shall receive preference over first-time applicants;	2545
(iii) Procedures to ensure that an appropriate racial	2546
balance is maintained in the district schools.	2547
(C) Except as provided in section 3313.982 of the Revised	2548
Code, the procedures for admitting adjacent or other district	2549
students, as applicable, shall not include:	2550
(1) Any requirement of academic ability, or any level of	2551
athletic, artistic, or other extracurricular skills;	2552

(2) Limitations on admitting applicants because of 2553
disability, except that a board may refuse to admit a student 2554
receiving services under Chapter 3323. of the Revised Code, if 2555
the services described in the student's IEP are not available in 2556
the district's schools; 2557

(3) A requirement that the student be proficient in the 2558
English language; 2559

(4) Rejection of any applicant because the student has 2560
been subject to disciplinary proceedings, except that if an 2561
applicant has been suspended or expelled by the student's 2562
district for ten consecutive days or more in the term for which 2563
admission is sought or in the term immediately preceding the 2564
term for which admission is sought, the procedures may include a 2565
provision denying admission of such applicant. 2566

(D) (1) Each school board permitting only enrollment of 2567
adjacent district students shall provide information about the 2568
policy adopted under this section, including the application 2569
procedures and deadlines, to the superintendent and the board of 2570
education of each adjacent district and, upon request, to the 2571
parent of any adjacent district student. 2572

(2) Each school board permitting enrollment of other 2573
district students shall provide information about the policy 2574
adopted under this section, including the application procedures 2575
and deadlines, upon request, to the board of education of any 2576
other school district or to the parent of any student anywhere 2577
in the state. 2578

(E) Any school board shall accept all credits toward 2579
graduation earned in adjacent or other district schools by an 2580
adjacent or other district student or a native student. 2581

(F) (1) No board of education may adopt a policy 2582
discouraging or prohibiting its native students from applying to 2583
enroll in the schools of an adjacent or any other district that 2584
has adopted a policy permitting such enrollment, except that: 2585

(a) A district may object to the enrollment of a native 2586
student in an adjacent or other district in order to maintain an 2587
appropriate racial balance. 2588

(b) The board of education of a district receiving funds 2589
under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, 2590
may adopt a resolution objecting to the enrollment of its native 2591
students in adjacent or other districts if at least ten per cent 2592
of its students are included in the determination of the United 2593
States secretary of education made under section 20 U.S.C.A. 2594
238(a). 2595

(2) If a board objects to enrollment of native students 2596
under this division, any adjacent or other district shall refuse 2597
to enroll such native students unless tuition is paid for the 2598
students in accordance with section 3317.08 of the Revised Code. 2599
An adjacent or other district enrolling such students may not 2600
receive funding for those students in accordance with section 2601
3313.981 of the Revised Code. 2602

(G) The state board of education shall monitor school 2603
districts to ensure compliance with this section and the 2604
districts' policies. The board may adopt rules requiring uniform 2605
application procedures, deadlines for application, notification 2606
procedures, and record-keeping requirements for all school 2607
boards that adopt policies permitting the enrollment of adjacent 2608
or other district students, as applicable. If the state board 2609
adopts such rules, no school board shall adopt a policy that 2610
conflicts with those rules. 2611

(H) A resolution adopted by a board of education under 2612
this section that entirely prohibits the enrollment of students 2613
from adjacent and from other school districts does not abrogate 2614
any agreement entered into under section 3313.841 or 3313.92 of 2615
the Revised Code or any contract entered into under section 2616
3313.90 of the Revised Code between the board of education 2617
adopting the resolution and the board of education of any 2618
adjacent or other district or prohibit these boards of education 2619
from entering into any such agreement or contract. 2620

(I) Nothing in this section shall be construed to permit 2621
or require the board of education of a city, exempted village, 2622
or local school district to exclude any native student of the 2623
district from enrolling in the district. 2624

Sec. 5120.653. An inmate's participation in the prison 2625
nursery program may be terminated by the department of 2626
rehabilitation and correction if one of the following occurs: 2627

(A) The inmate fails to comply with the agreement entered 2628
into under division (A) of section 5120.652 of the Revised Code. 2629

(B) The inmate's child becomes seriously ill, cannot meet 2630
medical criteria established by the department of rehabilitation 2631
and correction for the program, or otherwise cannot safely 2632
participate in the program. 2633

(C) A court issues an order that designates a person other 2634
than the inmate as the child's residential parent and legal 2635
custodian. 2636

(D) A juvenile court, in an action brought pursuant to 2637
division (A)(2) of section 2151.23 of the Revised Code, grants 2638
custody of the child to a person other than the inmate. 2639

(E) An order is issued pursuant to section 3109.04 of the 2640

Revised Code granting ~~shared parenting~~ equal legal and physical
custody of the child. 2641
2642

(F) An order of disposition regarding the child is issued 2643
pursuant to division (A) (2), (3), or (4) of section 2151.353 of 2644
the Revised Code granting temporary, permanent, or legal custody 2645
of the child to a person, other than the inmate, or to a public 2646
children services agency or private child placing agency. 2647

(G) The inmate is released from imprisonment. 2648

Section 2. That existing sections 3105.65, 3109.03, 2649
3109.04, 3109.041, 3109.042, 3109.043, 3109.051, 3109.09, 2650
3109.12, 3109.401, 3109.56, 3111.24, 3111.26, 3111.49, 3119.01, 2651
3119.051, 3119.22, 3119.23, 3119.24, 3119.63, 3310.51, 3313.98, 2652
and 5120.653 of the Revised Code are hereby repealed. 2653

Section 3. That section 3119.231 of the Revised Code is 2654
hereby repealed. 2655

Section 4. Section 3119.63 of the Revised Code is 2656
presented in this act as a composite of the section as amended 2657
by both H.B. 366 and S.B. 70 of the 132nd General Assembly. The 2658
General Assembly, applying the principle stated in division (B) 2659
of section 1.52 of the Revised Code that amendments are to be 2660
harmonized if reasonably capable of simultaneous operation, 2661
finds that the composite is the resulting version of the section 2662
in effect prior to the effective date of the section as 2663
presented in this act. 2664