

# AN ACT

To amend section 3109.06 and to enact sections 3109.41 to 3109.48 of the Revised Code to deny custody and visitation rights to, and to terminate existing custody or visitation rights of, a parent who has been convicted of aggravated murder, murder, or voluntary manslaughter of the other parent of the child.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That section 3109.06 be amended and sections 3109.41, 3109.42, 3109.43, 3109.44, 3109.45, 3109.46, 3109.47, and 3109.48 of the Revised Code be enacted to read as follows:

Sec. 3109.06. Any court, other than a juvenile court, that has jurisdiction in any case respecting the allocation of parental rights and responsibilities for the care of a child under eighteen years of age and the designation of the child's place of residence and legal custodian or in any case respecting the support of a child under eighteen years of age, may, on its own motion or on motion of any interested party, with the consent of the juvenile court, certify the record in the case or so much of the record and such further information, in narrative form or otherwise, as the court deems necessary or the juvenile court requests, to the juvenile court for further proceedings; upon the certification, the juvenile court shall have exclusive jurisdiction.

In cases in which the court of common pleas finds the parents unsuitable to have the parental rights and responsibilities for the care of the child or children and unsuitable to provide the place of residence and to be the legal custodian of the child or children, consent of the juvenile court shall not be required to such certification. This section applies to actions pending on August 28, 1951.

In any case in which a court of common pleas, or other court having jurisdiction, has issued an order that allocates parental rights and responsibilities for the care of minor children and designates their place of residence and legal custodian of minor children, has made an order for support of minor children, or has done both, the jurisdiction of the court

shall not abate upon the death of the person awarded custody but shall continue for all purposes during the minority of the children, ~~and the~~. The court, upon its own motion or the motion of either parent or of any interested person acting on behalf of the children, may proceed to make further disposition of the case in the best interests of the children, ~~or if~~ and subject to sections 3109.42 to 3109.48 of the Revised Code. If the children are under eighteen years of age, it may certify them, pursuant to this section, to the juvenile court of any county for further proceedings. After certification to a juvenile court, the jurisdiction of the court of common pleas, or other court, shall cease, except as to any payments of spousal support due for the spouse and support payments due and unpaid for the children at the time of the certification.

Any disposition made pursuant to this section, whether by a juvenile court after a case is certified to it, or by any court upon the death of a person awarded custody of a child, shall be made in accordance with ~~section~~ sections 3109.04 and 3109.42 to 3109.48 of the Revised Code. If an appeal is taken from a decision made pursuant to this section that allocates parental rights and responsibilities for the care of a minor child and designates the child's place of residence and legal custodian, the court of appeals shall give the case calendar priority and handle it expeditiously.

Sec. 3109.41. As used in sections 3109.41 to 3109.48 of the Revised Code:

(A) A person is "convicted of killing" if the person has been convicted of or pleaded guilty to a violation of section 2903.01, 2903.02, or 2903.03 of the Revised Code.

(B) "Custody order" means an order designating a person as the residential parent and legal custodian of a child under section 3109.04 of the Revised Code or any order determining custody of a child under section 2151.23, 2151.33, 2151.353, 2151.354, 2151.355, 2151.356, 2151.415, 2151.417, or 3113.31 of the Revised Code.

(C) "Visitation order" means an order issued under division (B)(1)(c) of section 2151.33 or under section 2151.412, 3109.051, 3109.12, or 3113.31 of the Revised Code.

Sec. 3109.42. Except as provided in section 3109.47 of the Revised Code, if a parent is convicted of killing the other parent of a child, no court shall issue a custody order designating the parent as the residential parent and legal custodian of the child or granting custody of the child to the parent.

Sec. 3109.43. Except as provided in section 3109.47 of the Revised Code, if a parent is convicted of killing the other parent of a child, no court

shall issue a visitation order granting the parent visitation rights with the child.

Sec. 3109.44. Upon receipt of notice that a visitation order is pending or has been issued granting a parent visitation rights with a child or a custody order is pending or has been issued designating a parent as the residential parent and legal custodian of a child or granting custody of a child to a parent prior to that parent being convicted of killing the other parent of the child, the court in which the parent is convicted of killing the other parent shall immediately notify the court that issued the visitation or custody order of the conviction.

Sec. 3109.45. On receipt of notice under section 3109.44 of the Revised Code, a court that issued a visitation order described in that section shall terminate the order.

Sec. 3109.46. If the court to which notice is sent under section 3109.44 of the Revised Code is a juvenile court that issued a custody order described in that section, the court shall retain jurisdiction over the order. If the court to which notice is sent is not a juvenile court but the court issued a custody order described in that section, the court shall transfer jurisdiction over the custody order to the juvenile court of the county in which the child has a residence or legal settlement.

On receipt of the notice in cases in which the custody order was issued by a juvenile court or after jurisdiction is transferred, the juvenile court with jurisdiction shall terminate the custody order.

The termination order shall be treated as a complaint filed under section 2151.27 of the Revised Code alleging the child subject of the custody order to be a dependent child. If a juvenile court issued the terminated custody order under a prior juvenile proceeding under Chapter 2151. of the Revised Code in which the child was adjudicated an abused, neglected, dependent, unruly, or delinquent child or a juvenile traffic offender, the court shall treat the termination order as a new complaint.

Sec. 3109.47. (A) A court may do one of the following with respect to a parent convicted of killing the other parent of a child if the court determines, by clear and convincing evidence, that it is in the best interest of the child and the child consents:

(1) Issue a custody order designating the parent as the residential parent and legal custodian of the child or granting custody of the child to that parent;

(2) Issue a visitation order granting that parent visitation rights with the child.

(B) WHEN CONSIDERING THE ABILITY OF A CHILD TO

CONSENT AND THE VALIDITY OF A CHILD'S CONSENT UNDER THIS SECTION, THE COURT SHALL CONSIDER The wishes of the child, as expressed directly by the child or through the child's guardian ad litem, with due regard for the maturity of the child.

Sec. 3109.48. No person, with the child of the parent present, shall visit the parent who has been convicted of killing the child's other parent unless a court has issued an order granting the parent visitation rights with the child and the child's custodian or legal guardian consents to the visit.

SECTION 2. That existing section 3109.06 of the Revised Code is hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. H. B. No. 191

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_