

**As Introduced**

**127th General Assembly  
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**H. B. No. 61**

**Representative Ujvagi**

**Cosponsors: Representatives Dodd, Brown, McGregor, J., Skindell,  
Stebelton, Strahorn, Yuko, Koziura**

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**A B I L L**

To amend sections 3109.04 and 3109.041 of the Revised 1  
Code to prohibit a juvenile court from making 2  
custody determinations or modifications in a case 3  
in which one of the parents is called to active 4  
military service with any reserve component of the 5  
United States armed forces or Ohio militia. 6

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

**Section 1.** That sections 3109.04 and 3109.041 of the Revised 7  
Code be amended to read as follows: 8

**Sec. 3109.04.** (A) In any divorce, legal separation, or 9  
annulment proceeding and in any proceeding pertaining to the 10  
allocation of parental rights and responsibilities for the care of 11  
a child, upon hearing the testimony of either or both parents and 12  
considering any mediation report filed pursuant to section 13  
3109.052 of the Revised Code and in accordance with sections 14  
3127.01 to 3127.53 of the Revised Code, the court shall allocate 15  
the parental rights and responsibilities for the care of the minor 16  
children of the marriage. Subject to division (D)(2) of this 17  
section, the court may allocate the parental rights and 18

responsibilities for the care of the children in either of the 19  
following ways: 20

(1) If neither parent files a pleading or motion in 21  
accordance with division (G) of this section, if at least one 22  
parent files a pleading or motion under that division but no 23  
parent who filed a pleading or motion under that division also 24  
files a plan for shared parenting, or if at least one parent files 25  
both a pleading or motion and a shared parenting plan under that 26  
division but no plan for shared parenting is in the best interest 27  
of the children, the court, in a manner consistent with the best 28  
interest of the children, shall allocate the parental rights and 29  
responsibilities for the care of the children primarily to one of 30  
the parents, designate that parent as the residential parent and 31  
the legal custodian of the child, and divide between the parents 32  
the other rights and responsibilities for the care of the 33  
children, including, but not limited to, the responsibility to 34  
provide support for the children and the right of the parent who 35  
is not the residential parent to have continuing contact with the 36  
children. 37

(2) If at least one parent files a pleading or motion in 38  
accordance with division (G) of this section and a plan for shared 39  
parenting pursuant to that division and if a plan for shared 40  
parenting is in the best interest of the children and is approved 41  
by the court in accordance with division (D)(1) of this section, 42  
the court may allocate the parental rights and responsibilities 43  
for the care of the children to both parents and issue a shared 44  
parenting order requiring the parents to share all or some of the 45  
aspects of the physical and legal care of the children in 46  
accordance with the approved plan for shared parenting. If the 47  
court issues a shared parenting order under this division and it 48  
is necessary for the purpose of receiving public assistance, the 49  
court shall designate which one of the parents' residences is to 50

serve as the child's home. The child support obligations of the 51  
parents under a shared parenting order issued under this division 52  
shall be determined in accordance with Chapters 3119., 3121., 53  
3123., and 3125. of the Revised Code. 54

(B)(1) When making the allocation of the parental rights and 55  
responsibilities for the care of the children under this section 56  
in an original proceeding or in any proceeding for modification of 57  
a prior order of the court making the allocation, the court shall 58  
take into account that which would be in the best interest of the 59  
children. In determining the child's best interest for purposes of 60  
making its allocation of the parental rights and responsibilities 61  
for the care of the child and for purposes of resolving any issues 62  
related to the making of that allocation, the court, in its 63  
discretion, may and, upon the request of either party, shall 64  
interview in chambers any or all of the involved children 65  
regarding their wishes and concerns with respect to the 66  
allocation. 67

(2) If the court interviews any child pursuant to division 68  
(B)(1) of this section, all of the following apply: 69

(a) The court, in its discretion, may and, upon the motion of 70  
either parent, shall appoint a guardian ad litem for the child. 71

(b) The court first shall determine the reasoning ability of 72  
the child. If the court determines that the child does not have 73  
sufficient reasoning ability to express the child's wishes and 74  
concern with respect to the allocation of parental rights and 75  
responsibilities for the care of the child, it shall not determine 76  
the child's wishes and concerns with respect to the allocation. If 77  
the court determines that the child has sufficient reasoning 78  
ability to express the child's wishes or concerns with respect to 79  
the allocation, it then shall determine whether, because of 80  
special circumstances, it would not be in the best interest of the 81  
child to determine the child's wishes and concerns with respect to 82

the allocation. If the court determines that, because of special 83  
circumstances, it would not be in the best interest of the child 84  
to determine the child's wishes and concerns with respect to the 85  
allocation, it shall not determine the child's wishes and concerns 86  
with respect to the allocation and shall enter its written 87  
findings of fact and opinion in the journal. If the court 88  
determines that it would be in the best interests of the child to 89  
determine the child's wishes and concerns with respect to the 90  
allocation, it shall proceed to make that determination. 91

(c) The interview shall be conducted in chambers, and no 92  
person other than the child, the child's attorney, the judge, any 93  
necessary court personnel, and, in the judge's discretion, the 94  
attorney of each parent shall be permitted to be present in the 95  
chambers during the interview. 96

(3) No person shall obtain or attempt to obtain from a child 97  
a written or recorded statement or affidavit setting forth the 98  
child's wishes and concerns regarding the allocation of parental 99  
rights and responsibilities concerning the child. No court, in 100  
determining the child's best interest for purposes of making its 101  
allocation of the parental rights and responsibilities for the 102  
care of the child or for purposes of resolving any issues related 103  
to the making of that allocation, shall accept or consider a 104  
written or recorded statement or affidavit that purports to set 105  
forth the child's wishes and concerns regarding those matters. 106

(C) Prior to trial, the court may cause an investigation to 107  
be made as to the character, family relations, past conduct, 108  
earning ability, and financial worth of each parent and may order 109  
the parents and their minor children to submit to medical, 110  
psychological, and psychiatric examinations. The report of the 111  
investigation and examinations shall be made available to either 112  
parent or the parent's counsel of record not less than five days 113  
before trial, upon written request. The report shall be signed by 114

the investigator, and the investigator shall be subject to 115  
cross-examination by either parent concerning the contents of the 116  
report. The court may tax as costs all or any part of the expenses 117  
for each investigation. 118

If the court determines that either parent previously has 119  
been convicted of or pleaded guilty to any criminal offense 120  
involving any act that resulted in a child being a neglected 121  
child, that either parent previously has been determined to be the 122  
perpetrator of the neglectful act that is the basis of an 123  
adjudication that a child is a neglected child, or that there is 124  
reason to believe that either parent has acted in a manner 125  
resulting in a child being a neglected child, the court shall 126  
consider that fact against naming that parent the residential 127  
parent and against granting a shared parenting decree. When the 128  
court allocates parental rights and responsibilities for the care 129  
of children or determines whether to grant shared parenting in any 130  
proceeding, it shall consider whether either parent has been 131  
convicted of or pleaded guilty to a violation of section 2919.25 132  
of the Revised Code involving a victim who at the time of the 133  
commission of the offense was a member of the family or household 134  
that is the subject of the proceeding, has been convicted of or 135  
pleaded guilty to any other offense involving a victim who at the 136  
time of the commission of the offense was a member of the family 137  
or household that is the subject of the proceeding and caused 138  
physical harm to the victim in the commission of the offense, or 139  
has been determined to be the perpetrator of the abusive act that 140  
is the basis of an adjudication that a child is an abused child. 141  
If the court determines that either parent has been convicted of 142  
or pleaded guilty to a violation of section 2919.25 of the Revised 143  
Code involving a victim who at the time of the commission of the 144  
offense was a member of the family or household that is the 145  
subject of the proceeding, has been convicted of or pleaded guilty 146  
to any other offense involving a victim who at the time of the 147

commission of the offense was a member of the family or household 148  
that is the subject of the proceeding and caused physical harm to 149  
the victim in the commission of the offense, or has been 150  
determined to be the perpetrator of the abusive act that is the 151  
basis of an adjudication that a child is an abused child, it may 152  
designate that parent as the residential parent and may issue a 153  
shared parenting decree or order only if it determines that it is 154  
in the best interest of the child to name that parent the 155  
residential parent or to issue a shared parenting decree or order 156  
and it makes specific written findings of fact to support its 157  
determination. 158

(D)(1)(a) Upon the filing of a pleading or motion by either 159  
parent or both parents, in accordance with division (G) of this 160  
section, requesting shared parenting and the filing of a shared 161  
parenting plan in accordance with that division, the court shall 162  
comply with division (D)(1)(a)(i), (ii), or (iii) of this section, 163  
whichever is applicable: 164

(i) If both parents jointly make the request in their 165  
pleadings or jointly file the motion and also jointly file the 166  
plan, the court shall review the parents' plan to determine if it 167  
is in the best interest of the children. If the court determines 168  
that the plan is in the best interest of the children, the court 169  
shall approve it. If the court determines that the plan or any 170  
part of the plan is not in the best interest of the children, the 171  
court shall require the parents to make appropriate changes to the 172  
plan to meet the court's objections to it. If changes to the plan 173  
are made to meet the court's objections, and if the new plan is in 174  
the best interest of the children, the court shall approve the 175  
plan. If changes to the plan are not made to meet the court's 176  
objections, or if the parents attempt to make changes to the plan 177  
to meet the court's objections, but the court determines that the 178  
new plan or any part of the new plan still is not in the best 179

interest of the children, the court may reject the portion of the 180  
parents' pleadings or deny their motion requesting shared 181  
parenting of the children and proceed as if the request in the 182  
pleadings or the motion had not been made. The court shall not 183  
approve a plan under this division unless it determines that the 184  
plan is in the best interest of the children. 185

(ii) If each parent makes a request in the parent's pleadings 186  
or files a motion and each also files a separate plan, the court 187  
shall review each plan filed to determine if either is in the best 188  
interest of the children. If the court determines that one of the 189  
filed plans is in the best interest of the children, the court may 190  
approve the plan. If the court determines that neither filed plan 191  
is in the best interest of the children, the court may order each 192  
parent to submit appropriate changes to the parent's plan or both 193  
of the filed plans to meet the court's objections, or may select 194  
one of the filed plans and order each parent to submit appropriate 195  
changes to the selected plan to meet the court's objections. If 196  
changes to the plan or plans are submitted to meet the court's 197  
objections, and if any of the filed plans with the changes is in 198  
the best interest of the children, the court may approve the plan 199  
with the changes. If changes to the plan or plans are not 200  
submitted to meet the court's objections, or if the parents submit 201  
changes to the plan or plans to meet the court's objections but 202  
the court determines that none of the filed plans with the 203  
submitted changes is in the best interest of the children, the 204  
court may reject the portion of the parents' pleadings or deny 205  
their motions requesting shared parenting of the children and 206  
proceed as if the requests in the pleadings or the motions had not 207  
been made. If the court approves a plan under this division, 208  
either as originally filed or with submitted changes, or if the 209  
court rejects the portion of the parents' pleadings or denies 210  
their motions requesting shared parenting under this division and 211  
proceeds as if the requests in the pleadings or the motions had 212

not been made, the court shall enter in the record of the case 213  
findings of fact and conclusions of law as to the reasons for the 214  
approval or the rejection or denial. Division (D)(1)(b) of this 215  
section applies in relation to the approval or disapproval of a 216  
plan under this division. 217

(iii) If each parent makes a request in the parent's 218  
pleadings or files a motion but only one parent files a plan, or 219  
if only one parent makes a request in the parent's pleadings or 220  
files a motion and also files a plan, the court in the best 221  
interest of the children may order the other parent to file a plan 222  
for shared parenting in accordance with division (G) of this 223  
section. The court shall review each plan filed to determine if 224  
any plan is in the best interest of the children. If the court 225  
determines that one of the filed plans is in the best interest of 226  
the children, the court may approve the plan. If the court 227  
determines that no filed plan is in the best interest of the 228  
children, the court may order each parent to submit appropriate 229  
changes to the parent's plan or both of the filed plans to meet 230  
the court's objections or may select one filed plan and order each 231  
parent to submit appropriate changes to the selected plan to meet 232  
the court's objections. If changes to the plan or plans are 233  
submitted to meet the court's objections, and if any of the filed 234  
plans with the changes is in the best interest of the children, 235  
the court may approve the plan with the changes. If changes to the 236  
plan or plans are not submitted to meet the court's objections, or 237  
if the parents submit changes to the plan or plans to meet the 238  
court's objections but the court determines that none of the filed 239  
plans with the submitted changes is in the best interest of the 240  
children, the court may reject the portion of the parents' 241  
pleadings or deny the parents' motion or reject the portion of the 242  
parents' pleadings or deny their motions requesting shared 243  
parenting of the children and proceed as if the request or 244  
requests or the motion or motions had not been made. If the court 245



approves a plan under this division, either as originally filed or 246  
with submitted changes, or if the court rejects the portion of the 247  
pleadings or denies the motion or motions requesting shared 248  
parenting under this division and proceeds as if the request or 249  
requests or the motion or motions had not been made, the court 250  
shall enter in the record of the case findings of fact and 251  
conclusions of law as to the reasons for the approval or the 252  
rejection or denial. Division (D)(1)(b) of this section applies in 253  
relation to the approval or disapproval of a plan under this 254  
division. 255

(b) The approval of a plan under division (D)(1)(a)(ii) or 256  
(iii) of this section is discretionary with the court. The court 257  
shall not approve more than one plan under either division and 258  
shall not approve a plan under either division unless it 259  
determines that the plan is in the best interest of the children. 260  
If the court, under either division, does not determine that any 261  
filed plan or any filed plan with submitted changes is in the best 262  
interest of the children, the court shall not approve any plan. 263

(c) Whenever possible, the court shall require that a shared 264  
parenting plan approved under division (D)(1)(a)(i), (ii), or 265  
(iii) of this section ensure the opportunity for both parents to 266  
have frequent and continuing contact with the child, unless 267  
frequent and continuing contact with any parent would not be in 268  
the best interest of the child. 269

(d) If a court approves a shared parenting plan under 270  
division (D)(1)(a)(i), (ii), or (iii) of this section, the 271  
approved plan shall be incorporated into a final shared parenting 272  
decree granting the parents the shared parenting of the children. 273  
Any final shared parenting decree shall be issued at the same time 274  
as and shall be appended to the final decree of dissolution, 275  
divorce, annulment, or legal separation arising out of the action 276  
out of which the question of the allocation of parental rights and 277

responsibilities for the care of the children arose. 278

No provisional shared parenting decree shall be issued in 279  
relation to any shared parenting plan approved under division 280  
(D)(1)(a)(i), (ii), or (iii) of this section. A final shared 281  
parenting decree issued under this division has immediate effect 282  
as a final decree on the date of its issuance, subject to 283  
modification or termination as authorized by this section. 284

(2) If the court finds, with respect to any child under 285  
eighteen years of age, that it is in the best interest of the 286  
child for neither parent to be designated the residential parent 287  
and legal custodian of the child, it may commit the child to a 288  
relative of the child or certify a copy of its findings, together 289  
with as much of the record and the further information, in 290  
narrative form or otherwise, that it considers necessary or as the 291  
juvenile court requests, to the juvenile court for further 292  
proceedings, and, upon the certification, the juvenile court has 293  
exclusive jurisdiction. 294

(E)(1)(a) The court shall not modify a prior decree 295  
allocating parental rights and responsibilities for the care of 296  
children unless it finds, based on facts that have arisen since 297  
the prior decree or that were unknown to the court at the time of 298  
the prior decree, that a change has occurred in the circumstances 299  
of the child, the child's residential parent, or either of the 300  
parents subject to a shared parenting decree, and that the 301  
modification is necessary to serve the best interest of the child. 302  
In applying these standards, the court shall retain the 303  
residential parent designated by the prior decree or the prior 304  
shared parenting decree, unless a modification is in the best 305  
interest of the child and one of the following applies: 306

(i) The residential parent agrees to a change in the 307  
residential parent or both parents under a shared parenting decree 308  
agree to a change in the designation of residential parent. 309

(ii) The child, with the consent of the residential parent or  
of both parents under a shared parenting decree, has been  
integrated into the family of the person seeking to become the  
residential parent.

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

(b) One or both of the parents under a prior decree  
allocating parental rights and responsibilities for the care of  
children that is not a shared parenting decree may file a motion  
requesting that the prior decree be modified to give both parents  
shared rights and responsibilities for the care of the children.  
The motion shall include both a request for modification of the  
prior decree and a request for a shared parenting order that  
complies with division (G) of this section. Upon the filing of the  
motion, if the court determines that a modification of the prior  
decree is authorized under division (E)(1)(a) of this section, the  
court may modify the prior decree to grant a shared parenting  
order, provided that the court shall not modify the prior decree  
to grant a shared parenting order unless the court complies with  
divisions (A) and (D)(1) of this section and, in accordance with  
those divisions, approves the submitted shared parenting plan and  
determines that shared parenting would be in the best interest of  
the children.

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

(a) Both parents under a shared parenting decree jointly may  
modify the terms of the plan for shared parenting approved by the  
court and incorporated by it into the shared parenting decree.  
Modifications under this division may be made at any time. The  
modifications to the plan shall be filed jointly by both parents  
with the court, and the court shall include them in the plan,

unless they are not in the best interest of the children. If the 342  
modifications are not in the best interests of the children, the 343  
court, in its discretion, may reject the modifications or make 344  
modifications to the proposed modifications or the plan that are 345  
in the best interest of the children. Modifications jointly 346  
submitted by both parents under a shared parenting decree shall be 347  
effective, either as originally filed or as modified by the court, 348  
upon their inclusion by the court in the plan. Modifications to 349  
the plan made by the court shall be effective upon their inclusion 350  
by the court in the plan. 351

(b) The court may modify the terms of the plan for shared 352  
parenting approved by the court and incorporated by it into the 353  
shared parenting decree upon its own motion at any time if the 354  
court determines that the modifications are in the best interest 355  
of the children or upon the request of one or both of the parents 356  
under the decree. Modifications under this division may be made at 357  
any time. The court shall not make any modification to the plan 358  
under this division, unless the modification is in the best 359  
interest of the children. 360

(c) The court may terminate a prior final shared parenting 361  
decree that includes a shared parenting plan approved under 362  
division (D)(1)(a)(i) of this section upon the request of one or 363  
both of the parents or whenever it determines that shared 364  
parenting is not in the best interest of the children. The court 365  
may terminate a prior final shared parenting decree that includes 366  
a shared parenting plan approved under division (D)(1)(a)(ii) or 367  
(iii) of this section if it determines, upon its own motion or 368  
upon the request of one or both parents, that shared parenting is 369  
not in the best interest of the children. If modification of the 370  
terms of the plan for shared parenting approved by the court and 371  
incorporated by it into the final shared parenting decree is 372  
attempted under division (E)(2)(a) of this section and the court 373

rejects the modifications, it may terminate the final shared 374  
parenting decree if it determines that shared parenting is not in 375  
the best interest of the children. 376

(d) Upon the termination of a prior final shared parenting 377  
decree under division (E)(2)(c) of this section, the court shall 378  
proceed and issue a modified decree for the allocation of parental 379  
rights and responsibilities for the care of the children under the 380  
standards applicable under divisions (A), (B), and (C) of this 381  
section as if no decree for shared parenting had been granted and 382  
as if no request for shared parenting ever had been made. 383

(F)(1) In determining the best interest of a child pursuant 384  
to this section, whether on an original decree allocating parental 385  
rights and responsibilities for the care of children or a 386  
modification of a decree allocating those rights and 387  
responsibilities, the court shall consider all relevant factors, 388  
including, but not limited to: 389

(a) The wishes of the child's parents regarding the child's 390  
care; 391

(b) If the court has interviewed the child in chambers 392  
pursuant to division (B) of this section regarding the child's 393  
wishes and concerns as to the allocation of parental rights and 394  
responsibilities concerning the child, the wishes and concerns of 395  
the child, as expressed to the court; 396

(c) The child's interaction and interrelationship with the 397  
child's parents, siblings, and any other person who may 398  
significantly affect the child's best interest; 399

(d) The child's adjustment to the child's home, school, and 400  
community; 401

(e) The mental and physical health of all persons involved in 402  
the situation; 403

(f) The parent more likely to honor and facilitate 404  
court-approved parenting time rights or visitation and 405  
companionship rights; 406

(g) Whether either parent has failed to make all child 407  
support payments, including all arrearages, that are required of 408  
that parent pursuant to a child support order under which that 409  
parent is an obligor; 410

(h) Whether either parent previously has been convicted of or 411  
pleaded guilty to any criminal offense involving any act that 412  
resulted in a child being an abused child or a neglected child; 413  
whether either parent, in a case in which a child has been 414  
adjudicated an abused child or a neglected child, previously has 415  
been determined to be the perpetrator of the abusive or neglectful 416  
act that is the basis of an adjudication; whether either parent 417  
previously has been convicted of or pleaded guilty to a violation 418  
of section 2919.25 of the Revised Code involving a victim who at 419  
the time of the commission of the offense was a member of the 420  
family or household that is the subject of the current proceeding; 421  
whether either parent previously has been convicted of or pleaded 422  
guilty to any offense involving a victim who at the time of the 423  
commission of the offense was a member of the family or household 424  
that is the subject of the current proceeding and caused physical 425  
harm to the victim in the commission of the offense; and whether 426  
there is reason to believe that either parent has acted in a 427  
manner resulting in a child being an abused child or a neglected 428  
child; 429

(i) Whether the residential parent or one of the parents 430  
subject to a shared parenting decree has continuously and 431  
willfully denied the other parent's right to parenting time in 432  
accordance with an order of the court; 433

(j) Whether either parent has established a residence, or is 434  
planning to establish a residence, outside this state. 435

(2) In determining whether shared parenting is in the best interest of the children, the court shall consider all relevant factors, including, but not limited to, the factors enumerated in division (F)(1) of this section, the factors enumerated in section 3119.23 of the Revised Code, and all of the following factors:

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

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

(c) Any history of, or potential for, child abuse, spouse abuse, other domestic violence, or parental kidnapping by either parent;

(d) The geographic proximity of the parents to each other, as the proximity relates to the practical considerations of shared parenting;

(e) The recommendation of the guardian ad litem of the child, if the child has a guardian ad litem.

(3) When allocating parental rights and responsibilities for the care of children, the court shall not give preference to a parent because of that parent's financial status or condition.

(G) Either parent or both parents of any children may file a pleading or motion with the court requesting the court to grant both parents shared parental rights and responsibilities for the care of the children in a proceeding held pursuant to division (A) of this section. If a pleading or motion requesting shared parenting is filed, the parent or parents filing the pleading or motion also shall file with the court a plan for the exercise of shared parenting by both parents. If each parent files a pleading or motion requesting shared parenting but only one parent files a plan or if only one parent files a pleading or motion requesting

shared parenting and also files a plan, the other parent as 467  
ordered by the court shall file with the court a plan for the 468  
exercise of shared parenting by both parents. The plan for shared 469  
parenting shall be filed with the petition for dissolution of 470  
marriage, if the question of parental rights and responsibilities 471  
for the care of the children arises out of an action for 472  
dissolution of marriage, or, in other cases, at a time at least 473  
thirty days prior to the hearing on the issue of the parental 474  
rights and responsibilities for the care of the children. A plan 475  
for shared parenting shall include provisions covering all factors 476  
that are relevant to the care of the children, including, but not 477  
limited to, provisions covering factors such as physical living 478  
arrangements, child support obligations, provision for the 479  
children's medical and dental care, school placement, and the 480  
parent with which the children will be physically located during 481  
legal holidays, school holidays, and other days of special 482  
importance. 483

(H) If an appeal is taken from a decision of a court that 484  
grants or modifies a decree allocating parental rights and 485  
responsibilities for the care of children, the court of appeals 486  
shall give the case calendar priority and handle it expeditiously. 487

(I)(1) The court shall stay any proceeding pertaining to the 488  
allocation or modification of parental rights and responsibilities 489  
pursuant to this section if a parent who is a subject of the 490  
allocation or modification proceeding is called to active military 491  
service in the uniformed services. The court shall stay any 492  
proceeding pertaining to the allocation or modification of 493  
parental rights and responsibilities pursuant to this section 494  
until receipt of written notice of the termination of the parent's 495  
active military service provided pursuant to division (I)(2) of 496  
this section. Nothing in this division shall prevent a court from 497  
issuing an order temporarily allocating or modifying parental 498



rights and responsibilities prior to staying proceedings in 499  
accordance with this division. 500

(2) A parent who is called to active military service in the 501  
uniformed services and is a subject of any proceeding pertaining 502  
to the allocation or modification of parental rights and 503  
responsibilities pursuant to this section shall provide written 504  
notice of the date of termination of the parent's active military 505  
service to the court not later than the last day of the month in 506  
which the service ends. 507

(3) The court shall not find active military service in the 508  
uniformed services to constitute a change in circumstances 509  
justifying modification of a prior decree pursuant to division (E) 510  
of this section. 511

(J) As used in this section, ~~"abused:~~ 512

(1) "Abused child" has the same meaning as in section 513  
2151.031 of the Revised Code, ~~and "neglected.~~ 514

(2) "Active military service" means the performance of active 515  
military duty by a member of the uniformed services for a period 516  
of more than thirty days. 517

(3) "Neglected child" has the same meaning as in section 518  
2151.03 of the Revised Code. 519

(4) "Uniformed services" means the Ohio organized militia 520  
when engaged in full-time national guard duty or any reserve 521  
component of the armed forces of the United States. 522

~~(J)~~(K) As used in the Revised Code, "shared parenting" means 523  
that the parents share, in the manner set forth in the plan for 524  
shared parenting that is approved by the court under division 525  
(D)(1) and described in division ~~(K)~~(L)(6) of this section, all or 526  
some of the aspects of physical and legal care of their children. 527

~~(K)~~(L) For purposes of the Revised Code: 528

(1) A parent who is granted the care, custody, and control 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 has "custody of the child" and "care, custody, and control of the child" under the order, and is the "residential parent," the "residential parent and legal custodian," or the "custodial parent" of the child under the order.

(2) A parent who primarily is allocated the parental rights and responsibilities for the care of a child and who is 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 has "custody of the child" and "care, custody, and control of the child" under the order, and is the "residential parent," the "residential parent and legal custodian," or the "custodial parent" of the child under the order.

(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.

(4) 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 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.

(5) 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 of a child, both parents have 561  
"custody of the child" or "care, custody, and control of the 562  
child" under the order, to the extent and in the manner specified 563  
in the order. 564

(6) Unless the context clearly requires otherwise and except 565  
as otherwise provided in the order, if an order is issued by a 566  
court pursuant to this section and the order provides for shared 567  
parenting of a child, each parent, regardless of where the child 568  
is physically located or with whom the child is residing at a 569  
particular point in time, as specified in the order, is the 570  
"residential parent," the "residential parent and legal 571  
custodian," or the "custodial parent" of the child. 572

(7) Unless the context clearly requires otherwise and except 573  
as otherwise provided in the order, a designation in the order of 574  
a parent as the residential parent for the purpose of determining 575  
the school the child attends, as the custodial parent for purposes 576  
of claiming the child as a dependent pursuant to section 152(e) of 577  
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 578  
1, as amended, or as the residential parent for purposes of 579  
receiving public assistance pursuant to division (A)(2) of this 580  
section, does not affect the designation pursuant to division 581  
(~~K~~)(L)(6) of this section of each parent as the "residential 582  
parent," the "residential parent and legal custodian," or the 583  
"custodial parent" of the child. 584

**Sec. 3109.041.** (A) Parties to any custody decree issued 585  
pursuant to section 3109.04 of the Revised Code prior to ~~the~~ 586  
~~effective date of this amendment~~ April 11, 1991, may file a motion 587  
with the court that issued the decree requesting the issuance of a 588  
shared parenting decree in accordance with division (G) of section 589  
3109.04 of the Revised Code. Upon the filing of the motion, the 590  
court shall determine whether to grant the parents shared rights 591

and responsibilities for the care of the children in accordance 592  
with divisions (A), (D)(1), ~~and (E)(1), and (I)~~ of section 3109.04 593  
of the Revised Code. 594

(B) A custody decree issued pursuant to section 3109.04 of 595  
the Revised Code prior to ~~the effective date of this amendment~~ 596  
April 11, 1991, that granted joint care, custody, and control of 597  
the children to the parents shall not be affected or invalidated 598  
by, and shall not be construed as being affected or invalidated 599  
by, the provisions of section 3109.04 of the Revised Code relative 600  
to the granting of a shared parenting decree or a decree 601  
allocating parental rights and responsibilities for the care of 602  
children on and after ~~the effective date of this amendment~~ April 603  
11, 1991. The decree issued prior to ~~the effective date of this~~ 604  
~~amendment~~ April 11, 1991 shall remain in full force and effect, 605  
subject to modification or termination pursuant to section 3109.04 606  
of the Revised Code as that section exists on and after ~~the~~ 607  
~~effective date of this amendment~~ April 11, 1991. 608

(C) As used in this section, "joint custody" and "joint care, 609  
custody, and control" have the same meaning as "shared parenting." 610

**Section 2.** That existing sections 3109.04 and 3109.041 of the 611  
Revised Code are hereby repealed. 612